

INDEX TO PUBLIC COMMENT: LETTERS

Bureau of Land Management

California Regional Water Quality Control Board

California Coastal Commission (letters and staff analysis)

San Luis Obispo Council of Governments

North Coast Advisory Council

American Land Conservancy

California Coastal Protection Network

California Native Plant Society

Coastwalk

Defenders of Wildlife

Environmental Defense Center (8/9 letter to WCB plus other pages)

Environmental Defense Center and Sierra Club California

Friends of the Elephant Seal

Friends of the Ranchland

Hearst Ranch Conservation NOW (letter plus two documents)

North Coast Alliance

PasoWatch

Sierra Club/California Activists listserve/Allen Eberhart

Postcard (approx. 50 identical postcards rec'd by 9/9)

E-mail (approx. 45 identical e-mails rec'd by 9/9)

Individuals (ordered alphabetically)

David H. Anderson

Phil Ashley

Jesse Arnold

Andrew Carter

Lynn Christie

David Dabritz

James Fenton

Franklin Frank

Bill Garrett

Bea and Sherm Griselle

Linda (?)

Linda Owen

Stanley Reichenberg

Holly Sletteland

Robert Sparling

Patricia Wiley

Vicky Zachary

Exhibit 9.1: Public Comment—Letters

09/08/2004 12:28 FAX 916 978 4620

EXTERNAL AFFAIRS

001



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

California State Office
2800 Cottage Way
Sacramento, California 95831
www.ca.blm.gov



SEP 08 2004

Sam Schuchat, Executive Officer
State Coastal Conservancy
1330 Broadway, #1100
Oakland, CA 94612
Fax 510/286-0470

Dear Mr. Schuchat:

As State Director for the U.S. Bureau of Land Management (BLM), it is my privilege to administer the Piedras Blancas Light Station, 19 acres of public lands currently surrounded by the Hearst Ranch. Although BLM is not a party to the Hearst/State agreement now being considered for final approval by the Conservancy, this letter is intended to express BLM's strong support of the State of California's efforts to acquire this significant piece of the Central Coast and California's history.

Since re-acquiring the Piedras Blancas from the Coast Guard in October 2001, BLM has been fortunate to develop a strong partnership with both the Hearsts, whose land surrounds us, and the nearby Hearst Castle, administered by the California Department of Parks and Recreation. That partnership enabled us to open up the Light Station to the first public tours since it was built in 1875. Those tours, begun in 2003, and continuing now in 2004, have enabled hundreds of visitors to share this special piece of the Coast.

The Hearsts have been very accommodating neighbors on the ocean-side of Highway 1 in our efforts to manage Piedras Blancas for the public's benefit. BLM also looks forward to a close working relationship with the State of California and the Department of Parks and Recreation once the acquisition process now underway is complete.

BLM values our strong partnership with the State of California, both in the management of Piedras Blancas as well as the adjacent California Coastal National Monument. We stand ready to strengthen this partnership to further enable all of us to protect this magnificent resource and provide for public access and enjoyment.

Sincerely,

Mike Pool
State Director

Exhibit 9.1: Public Comment—Letters



California Regional Water Quality Control Board Central Coast Region

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397



Arnold Schwarzenegger
Governor

August 23, 2004

Sam Schuchat, Executive Officer
State Coastal Conservancy
11th Floor, 1330 Broadway,
Oakland, CA 94612

Mr. Schuchat:

SUPPORT FOR THE HEARST RANCH CONSERVATION PROJECT, SAN LUIS OBISPO COUNTY

This letter is to provide my perspective regarding long-term resource protection on the Hearst Ranch. It is well established that the major threats to our coastal resources are development pressure and land use activities. Both of these issues can be addressed to ensure resource protection for future generations.

As the PEW Ocean Commission report states, our coastal areas are under ever increasing pressure as overall populations increase and regional populations migrate toward the coastline. Attempts to conserve areas like the Hearst Ranch will become exceedingly difficult in the future as population pressure increases. The Hearst Ranch conservation project addresses this issue by greatly limiting development possibilities through fee title purchase and a conservation easement. The opportunity offered by this project, on such a large watershed scale, is highly unique.

Regarding land use activities on the Hearst Ranch, existing laws and state policies can effectively address resource protection over the long-term. For example, the state's Porter Cologne Water Quality Control Act and Non-Point Source Control Program provide authority for the State and Regional Boards to regulate land use activities, primarily by requiring implementation of best management practices for grazing, irrigated agriculture and other similar activities. These best management practices are well defined and established. We have worked cooperatively with several large-scale landholders to implement these resource protection efforts, including Vandenberg Air Force Base, Cal Poly University, the George Work Ranch, the Jack Varian Ranch, PG&E, etc. We've also taken successful enforcement action when necessary (i.e., grazing practices on Santa Rosa Island). Other agencies, such as the Natural Resources Conservation Service and local Resource Conservation Districts, also offer invaluable assistance to landowners regarding long-term resource protection. The fact that the Regional Board and other agencies work to protect resources over the long-term may be an important consideration for you as decision makers on the Hearst Ranch project. In my view, the Hearst Ranch project offers conservation above and beyond the existing laws and regulations that protect resources.

I hope this letter provides some perspective regarding the long-term resource protection issue. If you have questions about our resource protection efforts or the examples mentioned above, please call me at (805) 549-3140.

Sincerely,

Roger W. Briggs
Executive Officer

RECEIVED

AUG 26 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.

S:\Regional Board Conservation Program\8-16-04 Hearst Ranch support ltr 2.doc

California Environmental Protection Agency



Exhibit 9.1: Public Comment—Letters

August 10, 2004

Wildlife Conservation Board
1807 13th Street, Suite 103
Sacramento, CA 95814

Re: August 12 Meeting Agenda Item 35, Hearst Ranch Conservation Area

Honorable Board Members:

I write in **opposition** to the grant of funds on your agenda for the purchase of a conservation easement for the Hearst Ranch in San Luis Obispo County (Item 35).

The California Coastal Act requires that the types, location, intensities, and design of new development in the coastal zone be consistent with the Chapter Three policies of the Act (PRC 30200 et seq.). These include requirements to maximize public access and recreation, protect environmentally sensitive habitats and other natural resources, including marine and coastal water resources such as wetlands and streams, avoid coastal hazards, concentrate new development in areas with adequate services, protect agricultural lands, and protect scenic resources. Pursuant to the Coastal Act, San Luis Obispo County's Local Coastal Program (LCP) has been certified by the Commission as the primary mechanism for implementing these policies, through local coastal planning and regulation of new development.

The Hearst Ranch Conservation Plan (HRCPP) would establish, in perpetuity, significant land use expectations and restrictions for future development on the approximate 49,000 acres of the Ranch in the coastal zone. These lands contain some of California's most significant coastal resources, including 18 miles of shoreline with more than a dozen significant sandy beaches, scenic agricultural landscapes, and a multitude of biologically diverse habitats and sensitive species. It is important, therefore, that the public, decision-makers, and current and future landowners understand the extent to which the proposed HRCPP may or may not be consistent with the Coastal Act and the SLO County LCP. While the HRCPP is not intended to alter existing regulatory requirements or to relieve the landowner(s) of requirements to obtain regulatory approvals prior to commencing development, the reality is that if this transaction is completed, land use expectations will be established and will be used to pressure subsequent regulatory approvals. This is why we feel it important to go on the record now so that all parties are on notice.

The Hearst Ranch is the "crown jewel" of California's priceless natural coastal heritage. The future conservation and use of these unique lands is of great consequence to current and future generations. The public has consistently demanded the highest protection of the coast as first manifested by its enactment, in 1972, of the California Coastal Conservation Act that established the Coastal Commission. The Coastal Commission is the principal frontline guardian of this public trust pursuant to the Coastal Act. Accordingly, and even though the Commission will review subsequent development

Exhibit 9.1: Public Comment—Letters

proposed for the Ranch, we think it imperative to speak out now before you make such a monumental decision affecting the environmental future of this precious reach of coastline in perpetuity.

I want to stress that we are not opposed to a genuine, meaningful land transaction **if** the transaction is clearly designed to guarantee long-term, effective protection of the public values and interests we are told is the primary purpose of the HRCP. The rub is, the proposal before you does **not** accomplish this goal and would, if implemented, do a great disservice to the public. We think you should postpone this matter and send staff back to the bargaining table to get the public a good deal.

The Commission has a long history of involvement in the conservation and use of the Hearst Ranch. We support efforts that maximize protection of the agricultural, biological, scenic, cultural and other coastal resources of the Ranch consistent with the environmental protection policies of the Coastal Act. Protecting and enhancing public access and recreational opportunities along this stretch of coast is of utmost importance. Unfortunately, the HRCP does not do that.

The HRCP is patently deficient in a number of critical ways with respect to accomplishing coastal resource protection policies. In particular, we are concerned that opportunities for providing public access and recreation along the coast have not been maximized; the HRCP will give rise to land use development expectations that are inconsistent with Coastal Act and LCP environmental protection policies; and the implementation mechanisms for the protection of environmentally sensitive habitats are clearly inadequate and will not assure that the requirements of the Coastal Act and SLO County LCP are effectively met. We agree with the Legislative Analyst's conclusion that the HRCP does not give the State the ability to effectively monitor and enforce the very resource protections the public is being asked to pay for.

In the short time since its release, we have conducted a preliminary analysis of the HRCP with respect to its conformity with the goals and policies of California's coastal protection program. Our concerns and recommendations are summarized below. We have also enclosed our preliminary analysis for your review.

Summary of Concerns:

Public Access and Recreation. The HRCP is inconsistent with Coastal Act requirements to *maximize* public coastal access and recreational opportunities. Major deficiencies include:

- Over 600 acres of the coast west of Highway One will remain in private ownership at Ragged Point, San Simeon Point, and Pico Cove. Public access will be significantly restricted in these areas and could result in the actual diminution of existing public access available through historic public use.
- Public access and use of westside lands granted to the State will be limited by legal restrictions tied to the transfer. Essential basic public access amenities, such

Exhibit 9.1: Public Comment—Letters

as restrooms, picnic benches and parking are, as a practical matter, prohibited. Hours and manner of use restrictions will have a chilling effect on public access.

- The California Coastal Trail is wedged alongside Highway One on the private retained lands west of the highway, rather than meandering along the shoreline. Hiking along the 18 miles of Hearst Ranch coastline on a continuous “Coastwalk” will not be possible due to restrictions on low-cost overnight facilities, such as a sensitively designed campground.
- No public trail link is provided between the coast and public lands to the east of the Ranch in Fort Hunter Liggett or Los Padres National Forest.

New Development and Agriculture. While the HRCF proposes to extinguish certain development potential, it fails to ensure maximum protection of agricultural lands inconsistent with the Coastal Act and the SLO County LCP.

- The Eastside Conservation Easement provides little protection of agricultural lands beyond existing agricultural zoning and related LCP requirements.
- The Eastside Conservation Easement actually allows for over 625 acres of non-agricultural residential estate development (25 Residential Parcels) in five “clusters” potentially encompassing approximately 3400 acres of ranchland. A conversion of agricultural land of this magnitude, let alone this configuration, likely could not be recommended for approval through the regulatory process.
- Visitor-serving and non-agricultural residential development potential on the Ranch in the coastal zone is limited, bringing into question the value of the agricultural conservation easement to the public.

Scenic Resources. The HRCF does not guarantee adequate protection of scenic resources as required by the Coastal Act and the LCP.

- The scenic resource protection standards for the proposed residential development sites are significantly weaker than the LCP, which requires locating development outside the public viewshed where feasible.
- Views from the realigned Highway One, California Coastal Trail, and public beaches and coastal waters are not protected by the agreement.
- Road development to serve new residential development clusters, and intensified agriculture could entail significant adverse impacts to rural grazing landscapes of the Ranch.
- The Caltrans scenic easement acquired as part of the HRCF provides little protection beyond existing LCP and Coastal Act requirements. Indeed, this “scenic easement” is not only unnecessary, it is not in the public’s interest because it would prohibit future beneficial public access and recreation improvements on public lands.

Environmentally Sensitive Habitat, Wetlands, and Riparian Resources. The HRCP does not effectively protect highly significant rare and sensitive habitats, biodiversity, wetlands, and riparian resources on the Ranch. Potential inconsistencies with the Coastal Act and LCP include:

- Over 625 acres of residential development and 3000 acres of intensified agricultural development in and around extremely significant rare and sensitive habitat areas. The size, location, and configuration of the clusters and agricultural intensification may cause significant direct adverse impacts and fragmentation of ESHA, including those identified in the LCP.
- The public is being asked to pay \$95 million to protect ecological conservation values on the Ranch. Remarkably, the very environmental resource values and interest the public is “buying” are only generally defined and have not been identified and inventoried. This baseline inventory, when and if it is completed, will be secret and not subject to public review. Without this information, it will not be possible to determine whether environmentally sensitive habitat is actually going to be protected.
- Although the public is buying a “conservation easement”, the management plan that is supposed to protect the resource values and interests being purchased will be prepared by Hearst, long after escrow closes, and will also be secret and not subject to public review or state approval. There is no effective public monitoring and enforcement mechanism to ensure that the public’s assets will be protected over time. In fact, this glaring failure of the HRCP to ensure adequate protection of the public’s investment raises concerns about the legal propriety of the transaction (i.e., “gift of public funds”).
- The standards for protection of sensitive habitats, wetlands, and riparian areas are considerably weaker than Coastal Act and LCP policies. The HRCP only requires a “balance” between agricultural uses and protection of water quality and riparian habitats and merely calls for prevention of “substantial impairment” of sensitive habitats, rather than the prohibition of new development within such habitat, as required by the Coastal Act and LCP. The HRCP definition of wetlands is less protective than that in the Coastal Act and LCP. Destruction of forested areas that may constitute ESHA is allowed by the HRCP to facilitate development.
- There are no provisions for periodically updating the Baseline Study to reflect changing conditions on the site, such as expansion of habitat areas over time, identification of sensitive habitats missed in the initial study, or newly identified sensitive species based on new information.

Coastal Hazards. The HRCP fails to respond adequately to identified coastal erosion hazards.

- North of Piedras Blancas, where shoreline retreat is most severe, the proposed Highway One Realignment Area does not appear wide enough to encompass all reasonable alternative locations for the highway, thereby prejudicing the

Exhibit 9.1: Public Comment—Letters

alternative alignment review process and opportunities to avoid future shoreline armoring and maintenance of Highway One as a two-lane scenic rural Highway.

- Although the public will receive title to the existing segments of Highway 1 that are expected to be abandoned to shoreline erosion in the future (together with intervening portions of the Realignment Area), this public benefit is of limited value since these lands will be severely restricted with respect to allowable public uses and related improvements and, in the not-too-distant future, are expected to erode into the sea.

Public Process and Enforcement. The HRCF fails to provide adequate state agency and public review and enforcement mechanisms for the proposed coastal resource conservation easement.

- The HRCF conveys certain property interests and will generate expectations for certain intensities and locations of development. Although the HRCF recognizes that LCP amendments and coastal development permits will be necessary, it also allows the grantor to locate the proposed homesites anywhere on the ranch should the application of coastal regulations be viewed by the landowner as being too restrictive or taking too long to obtain. It thus creates fallback development rights, on any existing parcel, that are triggered by more than minor deviations from the development plan contemplated by the HRCF.
- To the extent the HRCF provides coastal resource protection, it does not provide any meaningful ability for the State to monitor and enforce these protections beyond existing County and Coastal Commission land use authority over new development. Enforcement is limited to a complex and confidential audit process conducted at long intervals by the California Rangeland Trust. Audit results will not be subject to public review. The State has no effective mechanism to ensure that publicly acquired conservation values and interests will be preserved. Failure to provide for public review is contrary to Coastal Act policy declaring that the public has a "right to fully participate in decisions affecting coastal planning, conservation, and development" and "that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation."

Recommendations:

1. *All lands west of Highway One, except for a limited commercial/visitor-serving node at Old San Simeon Village, should be conveyed into public ownership as should an identified public trail alignment connecting the Coastal Trail with public lands to the east of the Ranch. An access and recreation management plan for all lands west of Highway One that provides for optimum alignment of the Coastal Trail and appropriate low-cost visitor amenities should be developed in consultation with State*

Exhibit 9.1: Public Comment—Letters

Parks, the State Coastal Conservancy, the Coastal Commission, SLO County, and other interested agencies.

- 2. Subdivision of the Ranch for residential purposes should be prohibited, and all areas of the Ranch not currently zoned for Agriculture, except for a limited commercial/visitor-serving node at Old San Simeon Village, should be rezoned to Agriculture. Further restrictions on supplemental non-agricultural uses beyond those of the LCP, such as prohibitions of dude ranches and health resorts, should be put in place. Limited non-agricultural residential uses could be considered in the context of a comprehensive lot retirement plan for the Ranch.*
- 3. All new non-agricultural development east of Highway One should be sited entirely out of major public viewsheds, including Highway One in its current and future configurations, the CCT, public beaches, the Hearst Castle, coastal waters, and other significant public vantage points. Except for visitor-serving development at Old San Simeon Village and public access and recreation amenities, no development should be allowed in the public viewshed west of Highway One. The State should evaluate viewshed restoration opportunities on private in-holdings and existing developments on the Ranch.*
- 4. The HRCPP should incorporate Coastal Act definitions of environmentally sensitive habitat areas and wetlands, and require that all new development, including agricultural intensification, avoid any ESHA and wetlands identified at the time of initial review of the proposed development, whether or not they are identified in the baseline study. The baseline study and an agricultural management plan should be made available to the public and the County for incorporation into the North Coast Area Plan LCP, and periodically updated to reflect changed environmental and legal circumstances. Cattle grazing and other agricultural land uses should be managed to provide maximum protection for ESHA, wetlands, and riparian resources while providing for a sustainable ranching operation.*
- 5. The HRCPP should be renegotiated so that the State holds the conservation easement and is responsible for the preparation, monitoring and enforcement of the management plan promulgated for the purpose of ensuring long-term protection of the conservation values and interests the public is buying through the easement.*
- 6. The inland boundary of the proposed Highway One Realignment Area should be revised to provide for all reasonable alternative realignments of the highway, including the east-of- the Todd in-holding alternative. The HRCPP should also clarify that the State's participation in the agreement in no way whatsoever waives its authority to exercise eminent domain, in event it becomes necessary, to protect the public interest. As a fallback measure, the 1938 highway right of way easement should be left intact, to run concurrently on all applicable Hearst Ranch lands, including the lands of any successors in interest, without regard to the proposed Realignment Area.*
- 7. The CalTrans scenic easement should be renegotiated to eliminate restrictions on the development of basic public access amenities.*

Exhibit 9.1: Public Comment—Letters

8. The various documents associated with the HRCP should be revised to make explicit that the HRCP is not an alternative to normal regulatory review of the development and land uses set forth in the HRCP. The documents should be clear that the HRCP does not supercede regulatory requirements, does not alter regulatory standards, and does not create any entitlements to regulatory approval of the development and land uses anticipated in the HRCP.

9. The HRCP should be revised to ensure effective public agency oversight and enforcement of the conservation values and interests being purchased in a manner consistent with natural resource protection policies of the Coastal Act. Maximum public participation in the monitoring and enforcement process should be provided.

10. The public review process for the HRCP should be extended, to provide for adequate evaluation of the proposed land transfer, conservation standards and implementation mechanisms, and other information that is yet to be provided.

In closing, we hope these comments are helpful in your consideration of the public purchase of a conservation easement on the Hearst Ranch. The decisions you are being asked to make, are as far-reaching and important to current and future generations as any I can imagine that seek to protect a precious national geographic treasure. Your decision will serve as precedent for other environmental conservation transactions. As proposed, the HRCP is, in our view, an ill-advised precedent you should not want to establish as your legacy to conservation practices in this State or Nation. The public and California coast deserve a better bargain than you are now being asked to approve. Thank you for the opportunity to comment.

Sincerely,
Peter Douglas

Peter Douglas
Executive Director

Enclosure: Draft CCC Staff Analysis of HRCP

August 10, 2004

To: Peter Douglas, Executive Director

From: Charles Lester, Deputy Director
Diane Landry, District Manager

RE: **DRAFT Evaluation of Hearst Ranch Conservation Plan**

Executive Summary

This memorandum presents a preliminary and partial evaluation of the proposed Hearst Ranch Conservation Plan (HRCP) for consistency with the California Coastal Act and the San Luis Obispo County Local Coastal Program (LCP). The Coastal Act requires that the types, location, intensities, and design of new development in the coastal zone be consistent with the Chapter Three policies of the Coastal Act. This includes requirements to maximize public access and recreation, protect marine and coastal water resources such as wetlands and streams, avoid coastal hazards, avoid and otherwise protect sensitive habitat areas, concentrate urban development and assure adequate services for new development, maintain agricultural lands, and protect scenic resources. The primary mechanism for implementing these policies is through the regulation of development pursuant to certified Local Coastal Programs (LCPs).

The HRCP would establish, *in perpetuity*, significant land use expectations and restrictions for future development on the approximate 49,000 acres of the Ranch in the coastal zone. These lands contain some of California's most significant coastal resources, including 18 miles of shoreline with more than a dozen significant sandy beaches, scenic agricultural landscapes, and a multitude of diverse sensitive species and habitats. It is essential, therefore, that the concerned public, decision-makers, and the landowner(s) understand the extent to which the proposed HRCP may or may not be consistent with the Coastal Act and the SLO County LCP.¹ It is also important for all parties involved to understand that the HRCP in no way alters existing regulatory requirements or relieves the landowner(s) of requirements to obtain regulatory approvals prior to commencing development anticipated by the HRCP.

As detailed below, based on the information available to date, the HRCP raises many questions and concerns regarding the adequacy of the proposed protection of coastal resources. Major issues discussed below include:

¹ This memo is a preliminary staff-level analysis. Any conclusions herein with respect to the Coastal Act and the LCP are staff evaluations, and are not intended to be or in any way reflect legal conclusions or findings of the Coastal Commission.

Exhibit 9.1: Public Comment—Letters

Public Access and Recreation. The HRCF is inconsistent with the Coastal Act requirement to maximize public coastal access and recreational opportunities. Major deficiencies include:

- Over 600 acres of the coast west of Highway One will remain in private ownership at Ragged Point, San Simeon Point, and Pico Cove. Public access will be significantly restricted in these areas and likely result in the loss of existing public access that has been available through historic permissive use policies on the Ranch, or that may exist as prescriptive public rights pre-dating these policies.
- Public access and use of westside lands granted to the State will be limited by legal restrictions that will take effect at the time of the land transfer. Basic public access and recreation amenities, such as restrooms and parking lots are, as a practical matter, prohibited. Viewing the sunrise or sunset from these lands is prohibited under the HRCF by restrictions on the hours of public availability.
- The California Coastal Trail alignment will be wedged alongside Highway One on the private retained lands west of the highway, rather than meandering along the shoreline. Hiking along the 18 miles of Hearst Ranch coastline on a continuous “Coastwalk” may not be possible due to restrictions on low-cost overnight facilities along the coast, such as a sensitively designed campground or hostel.
- No public trail link is provided between the coast and public lands of Fort Hunter Liggett or Los Padres National Forest.

New Development and Agriculture. The HRCF fails to ensure maximum protection of agricultural lands of the Hearst Ranch, inconsistent with the Coastal Act and the SLO County LCP. Major issues include:

- The Eastside Conservation Easement provides very little protection of agricultural lands beyond existing agricultural zoning and related LCP requirements.
- The Eastside Conservation Easement actually allows for over 625 acres of non-agricultural residential estate development (25 Residential Parcels) in five “clusters” potentially encompassing approximately 3400 acres of ranchland. A conversion of agricultural land of this magnitude, let alone this configuration, could not be recommended for approval through the regulatory process absent an agricultural easement over the remaining agricultural lands that precluded future non-agricultural development in perpetuity.
- Visitor-serving and non-agricultural residential development potential on the Ranch in the coastal zone under existing conditions and regulations is limited, bringing into question the value of the agricultural conservation easement to the public.

Scenic Resources. The HRCF fails to provide adequate protection of scenic resources as required by the Coastal Act and the LCP. Major issues include:

Exhibit 9.1: Public Comment—Letters

- The scenic resource protection standards for the proposed residential development sites are significantly weaker than the LCP, which requires locating development outside the public viewshed where feasible.
- Views from the realigned Highway One, California Coastal Trail, and public beaches and coastal waters are not protected by the agreement.
- Road development to serve new residential development clusters, and intensified agriculture would entail significant adverse impacts to rural grazing landscapes of the Ranch.
- The Caltrans scenic easement acquired as part of the HRCF provides no meaningful protection beyond existing LCP and Coastal Act requirements. Further, the easement actually limits the potential for future beneficial public access and recreation improvements on public lands. There is little development potential west of Highway One other than at Old San Simeon Village that would justify the scenic easement.
- Existing viewshed impairments such as the developed and potentially developed in-holdings north of Piedras Blancas are not addressed by the HRCF.

Environmentally Sensitive Habitat, Wetlands, and Riparian Resources. The current plan does not guarantee protection of highly significant rare and sensitive habitats, wetlands, and riparian resources on the Ranch. Potential inconsistencies with the Coastal Act and LCP include:

- The agreement contemplates over 625 acres of residential development and 3000 acres of intensified agricultural development in and around extremely significant rare and sensitive habitat areas. The size, location, and configuration of the clusters and agricultural intensification may cause significant direct adverse impacts and fragmentation of ESHA, including sensitive habitats currently identified as ESHA in the LCP.
- The ecological conservation values of the Ranch, protection of which is the primary purpose of public expenditures for the conservation easement, are only generally defined, and the baseline study of existing sensitive habitat resources is not complete and will be kept confidential when it is finished and thus will not be available for public review. Without this information, determining whether environmentally sensitive habitat is actually going to be protected will not be possible.
- The standards for protection of sensitive habitats, wetlands, and riparian areas are considerably weaker than policies contained in the Coastal Act and LCP. The HRCF only requires a “balance” between agricultural uses and protection of water quality and riparian habitats. The Eastside Conservation Easement only requires prevention of “substantial impairment” of sensitive habitats, rather than the avoidance and prevention of new development within such habitat, as required by the Coastal Act and LCP. The HRCF definition of wetlands is less protective than that in the Coastal Act and LCP. Destruction of forested areas that may constitute ESHA is allowed by the HRCF to facilitate development.

Exhibit 9.1: Public Comment—Letters

- There are no provisions for periodically updating the Baseline Study to reflect changing conditions on the site, such as expansion of habitat areas over time, identification of sensitive habitats missed in the initial study, or newly identified sensitive species based on new information.
- The conservation management plan that is to be prepared by Hearst after the State finances the HRCF and that is the primary mechanism for resource conservation protection under the HRCF will be confidential and not subject to public review. There is no effective public monitoring and enforcement mechanism to ensure that the public's assets will be protected over time.

Coastal Hazards. The HRCF fails to respond adequately to identified coastal erosion hazards, inconsistent with the Coastal Act and LCP. Major problems include:

- North of Piedras Blancas, where shoreline retreat is most severe, the proposed Highway One Realignment Area does not appear wide enough to encompass all reasonable alternative locations for the highway, thereby prejudicing the alternative alignment review process and opportunities to avoid future shoreline armoring and maintenance of Highway One as a scenic rural Highway.
- Although the public will receive title to the existing segments of Highway 1 that are expected to be abandoned to shoreline erosion in the future—together with intervening portions of the Realignment Area, this public benefit is of limited value since these lands will be severely restricted with respect to allowable public uses and related improvements and, in the not-too-distant future, they are in fact expected to erode into the sea.

Public Process and Enforcement. The HRCF fails to acknowledge or provide adequate state agency and public review and enforcement mechanisms for the proposed coastal resource conservation easement. Issues include:

- The HRCF conveys certain property interests, creates expectations for certain intensities and locations of development, and imposes some restrictions on the use of Hearst Ranch properties. Although the HRCF recognizes that LCP amendments and coastal development permits may be necessary to implement the HRCF, it also allows the grantor to seek exceptions to the application of coastal regulations if they are made more restrictive in the future; and creates fallback development rights on existing parcels that are triggered by more than minor deviation from the development plan contemplated by the HRCF.
- To the extent that the HRCF provides coastal resource protection, it does not provide any meaningful ability for the State, which is expending public funds to acquire the conservations easement, to monitor and enforce these protections beyond the existing land use authority of the County and the Commission with respect to new development on the Ranch. Enforcement is limited to a complex and confidential audit process to be conducted at long intervals under the auspices of the California Rangeland Trust. The audit results under the proposed HRCF will not be subject to public review nor is there any effective mechanism for the

Exhibit 9.1: Public Comment—Letters

State to ensure that publicly acquired conservation values and interests will be preserved.

Recommendations for an Improved Hearst Ranch Conservation Plan:

1. *All lands west of Highway One, except for a limited commercial/visitor-serving node at Old San Simeon Village, should be conveyed into public ownership as should an identified public trail alignment connecting the Coastal Trail with public lands to the east of the Ranch. An access and recreation management plan for all lands west of Highway One that provides for optimum alignment of the Coastal Trail and appropriate low-cost visitor amenities should be developed in consultation with State Parks, the State Coastal Conservancy, the Coastal Commission, SLO County, and other interested agencies.*
2. *Subdivision of the Ranch for residential purposes should be prohibited, and all areas of the Ranch not currently zoned for Agriculture, except for a limited commercial/visitor-serving node at Old San Simeon Village, should be rezoned to Agriculture. Further restrictions on supplemental non-agricultural uses beyond those of the LCP, such as prohibitions of dude ranches and health resorts, should be put in place. Limited non-agricultural residential uses could possibly be considered in the context of a comprehensive lot retirement plan for the Ranch.*
3. *All new non-agricultural development east of Highway One should be sited entirely out of major public viewsheds, including Highway One in its current and future configurations, the CCT, public beaches the Hearst Castle, coastal waters, and other significant public vantage points. Except for visitor-serving development at OSSV and public access and recreation amenities, no development should be allowed in the public viewshed west of Highway One. The State should evaluate viewshed restoration opportunities on private in-holdings and existing developments on the Ranch.*
4. *The HRCPP should incorporate the Coastal Act definitions of environmentally sensitive habitat and wetlands, and require that all new development, including agricultural intensification, avoid any ESHA and wetlands identified at the time of initial review of the proposed development, whether or not they are identified in the baseline study. The baseline study and an agricultural management plan should be made available to the public and the County for incorporation into the North Coast Area Plan LCP, and periodically updated to reflect changed environmental and legal circumstances. Cattle grazing and other agricultural land uses should be managed to provide maximum protection for ESHA, wetlands, and riparian resources while providing for a sustainable ranching operation.*
5. *The inland boundary of the proposed Highway One Realignment Area should be revised to provide for all reasonable alternative realignments of the highway, including the east-of- the Todd in-holding alternative. The HRCPP should also clarify that the State's participation in the agreement in no way whatsoever waives its*

Exhibit 9.1: Public Comment—Letters

authority to exercise eminent domain, in event it becomes necessary, to protect the public interest. As a fallback measure, the 1938 highway right of way easement should be left intact, to run concurrently on all applicable Hearst Ranch lands, including the lands of any successors in interest, without regard to the proposed Realignment Area.

6. *Although an LCP amendment will be required to fully implement the HRCP, the plan should be submitted and evaluated as a comprehensive amendment to the North Coast Area Plan of the LCP. This would allow for complete consideration of the plan with respect to the California Coastal Act. In particular, the location, intensity, and design standards for non-agricultural development contemplated by the HRCP could be evaluated for consistency with state law, including Coastal Act sections 30241, 30241.5, 30242, and 30250 (Agricultural land protection and concentration of development); section 30251 (scenic resources); 30240 (environmentally sensitive habitat); 30230, 30231, and 30233 (water quality, riparian, wetland protection); and 30210-14 and 30220-24 (public access and recreation). Land use designations and policy requirements for visitor-serving development west of Highway One, and other relevant policies for the Ranch, should be updated in the LCP amendment, consistent with the Coastal Commission's 1998 NCAP Update and 2001 Periodic Review recommendations for San Luis Obispo County.*
7. *The various documents associated with the HRCP should be revised to make explicit that the HRCP is not an alternative to normal regulatory review of the development and uses set forth in the HRCP. The documents should be clear that the HRCP does not supercede regulatory requirements, does not alter regulatory standards, and does not create any entitlements to regulatory approval of the development and uses anticipated in the HRCP.*
8. *The HRCP should be revised to ensure effective public agency oversight and enforcement of the conservation values and interests being purchased in a manner consistent with natural resource protection policies of the Coastal Act. Maximum public participation in the monitoring and enforcement process should be provided.*
9. *The public review process for the HRCP should be extended, to provide for adequate evaluation of the proposed land transfer, conservation standards and implementation mechanisms, and other information that is yet to be provided.*

Preliminary Staff Analysis

COASTAL ACT/LCP PLANNING PROCEDURAL CONTEXT

The HRCP must be understood in the context of relevant state coastal planning law. The California Coastal Act requires that the types, location, intensities, and design of new development in the coastal zone be consistent with the Chapter Three policies of the Coastal Act. This includes requirements to maximize public access and recreation, protect marine and coastal water resources such as wetlands and streams, avoid coastal hazards, avoid and otherwise protect sensitive habitat areas, concentrate urban development and assure adequate services for new development, maintain agricultural lands, and protect scenic resources. Local governments are authorized to regulate coastal development only pursuant to Local Coastal Programs (LCPs) that have been certified by the Commission as meeting the standards of the Coastal Act. In particular, LCPs must be sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and must contain implementing ordinances adequate to carry out the land use plan and policies.²

In the case of San Luis Obispo County, there is a Commission-certified LCP that includes a “Framework for Planning,” land use plan coastal policies and ordinances, and four distinct area plans that provide further context and specificity with respect to the kinds, location, and intensity of allowed development in various areas of the County’s coastal zone. The LCP also relies on certified “combining designation” maps that indicate land use and zoning designations, and other zoning overlays that show where higher levels of resource protection may be required (such as mapped sensitive habitat). New development on the Hearst Ranch, including any development anticipated by the HRCP, must be consistent with the County’s LCP, including the North Coast Area Plan (NCAP). New development between the first public road and the sea (Highway One) also must be consistent with the public access and recreation policies of the Coastal Act.³

The HRCP would establish, *in perpetuity*, significant land use expectations and restrictions for future development on the approximate 49,000 acres of the Ranch in the coastal zone. In some ways, the HRCP appears as a “specific plan” for the ultimate build-out of the Ranch.⁴ The HRCP seeks to delineate the types, locations, intensities, (and in some respects “design”) of future development on the Ranch, including changes in agricultural uses, and future public access. More important, inasmuch as the HRCP does provide a specific plan for the Ranch, it is also similar to, and must be evaluated against,

² Coastal Act definitions (PRC 30108.4, 30108.5 30108.6), standards for certification and voting requirements (PRC 30512 and 30513), and identification of appealable development (PRC 30603) all reinforce the essential importance of having precisely drafted land use designations and development and resource protection policies and ordinances in an LCP. Such specificity is required to assure that an LCP will be adequate to implement the policies and provisions of the Coastal Act.

³ PRC 30604.

⁴ Under General Plan law, specific plans detail, for a particular geographic area, the land uses, public and private facilities needed to support the land uses, phasing of development, standards for the conservation, development, and use of natural resources, and a program of implementation measures, including financing measures. See Government Code §65450 et seq.

Exhibit 9.1: Public Comment—Letters

the current planning and development standards for the Hearst Ranch within the certified North Coast Area Plan of the SLO LCP. Thus, the NCAP contains a phasing plan for potential visitor-serving development in several locations on the Ranch, as well as numerous development standards for assuring the protection of coastal resources and the provision of public access along the shoreline concurrent with any development. Other than the identified visitor-serving nodes, though, the remainder of the Ranch is designated for agricultural uses, and there is a specific planning standard prohibiting subdivisions on the Hearst Ranch unless the new parcel constitutes an individually viable agricultural unit or improves the viability of adjacent holdings (see below for detail).

From a procedural standpoint of the Coastal Act, the development that is planned for the Ranch by the HRCP could not proceed without amendment of the LCP. In particular, the HRCP imagines the creation of 25, twenty-five acre rural residential building parcels within identified areas of the Ranch currently designated for Agriculture. As discussed in more detail below, unless these new parcels were clearly established as individually viable agricultural parcels, they could not be created under the LCP; nor could the associated rural residential development be approved, absent a comprehensive LCP amendment for the Hearst Ranch that was consistent with the Coastal Act standards for protection of Agriculture and concentration of development. Parcels smaller than 320 acres could not be created under the LCP unless they were shown to support non-grazing agricultural crops or have higher soil capabilities for supporting such crops. Thus, the LCP would need to be amended either to change the zoning from Agriculture to Residential in the anticipated residential development areas, or to allow non-conforming residential development parcels in the Agricultural zone. In either case, the standard of review for such LCP amendments would be the Coastal Act.

Without more specific information and analysis of the proposed residential development and associated land uses, and the resources of the proposed housing sites, it appears that an LCP amendment would be necessary to fully implement the HRCP. It also seems unlikely that the planned residential development could be effectively pursued piecemeal, through individual LCP amendments. It would be difficult to analyze the creation of a single “residential enclave” within an Agricultural zone, without simultaneously analyzing the parcel(s) outside of the created residential area. Thus, a comprehensive amendment of the NCAP standards for the Hearst Ranch would likely be needed that considered the full extent of the anticipated conversion of agricultural lands to residential development. This would also allow for comprehensive consideration of all future development sites, road construction and other infrastructure, etc.

Separate from any necessary LCP amendments, full implementation of the HRCP also would require multiple discretionary coastal development permits. Permitting requirements would be triggered for development including but not limited to (1) any subdivisions proposed to create the residential development parcels; (2) single family homes and other associated residential development; (3) road development; (4) visitor-serving development at San Simeon Village; (5) public access and recreation amenities (e.g. trails); (6) agricultural intensifications that require significant grading of native vegetation or that involve increased water withdrawals; and development allowed by the

easement under Table O of the zoning ordinance. Absent further amendment of the LCP, the certified LCP has many standards that circumscribe new development. In particular, both the necessary subdivision and the non-agricultural residential development anticipated by the HRCF would be considered a conditional use on Agricultural lands. Conditional uses are appealable to the Coastal Commission pursuant to Coastal Act section 30603 and the SLO LCP. Development located between the first public road and the sea would also be appealable to the Commission. In the case of SLO County, many areas on the ranch are also designated as Sensitive Resource Areas (SRAs) and development within these SRAs are defined as appealable projects by the CZLUO.

Because of the many discretionary approvals potentially required by implementation of the HRCF, it is important for the concerned public and the landowner(s) to appreciate the extent to which the HRCF either provides for resource protection beyond existing state and local law, and the extent to which the HRCF may anticipate development that is not consistent with this law. As detailed in following sections, the HRCF does not appear to add any significant resource protection to the Hearst Ranch beyond that already provided by the certified LCP and the Coastal Act.

NEW DEVELOPMENT AND AGRICULTURE

As discussed, the HRCF would both restrict new development but also provide for a significant amount of new development on the Hearst Ranch. This section summarizes the existing planning and regulatory environment for the ranch and the planning and regulatory actions that would be required to implement the various development proposals laid out in the easement. As summarized previously, some of the development allowed by the HRCF may not be consistent with the LCP and/or the Coastal Act policies for new development and the protection of agricultural lands.

Existing Regulatory Framework

Agricultural Lands

Currently most of the approximately 49,000 acres of the ranch within the coastal zone is designated and zoned for agriculture. Of the 122 Hearst Ranch parcels either completely or partially in the coastal zone, nearly all of them are designated entirely for “Agriculture”. A few very large parcels that are designated Agriculture have discrete, much smaller nodes of land designated for recreational land uses.⁵ There is also a small area of land at San Simeon Village, spanning several parcels, that is zoned for commercial retail. As shown in Exhibit 10 of the HRCF, most of the smaller parcels in the coastal zone that received a certificate of compliance in 2002 are in the northwest quadrant of the ranch with approximately 80 parcels generally ranging from 40 acres to 640 acres. Another approximately 10 parcels lie partially within the coastal zone at the southern midsection of the Ranch. The remaining parcels consist of the very large

⁵ This includes small recreational nodes on large parcels at the Pine Forest area near San Simeon Acres, and at San Simeon Point.

Exhibit 9.1: Public Comment—Letters

parcels of the bulk of the Ranch in the coastal zone with a few smaller parcels in the vicinity of San Simeon Acres, San Simeon Point, and Piedras Blancas. There appear to be only four or five parcels that are located entirely seaward of Highway One.⁶

The LCP sets the minimum parcel size in the Agriculture zone at 320 acres for grazing lands, although larger parcels may be required if needed to maintain a viable agricultural operation. In general, the Coastal Plan Agriculture Policies, ordinances, and the NCAP establish overriding land division requirements for Agricultural lands, including requirements that any land division not be approved unless the division will maintain or enhance the agricultural viability of the site.⁷ Smaller agricultural parcels are allowed in the Agriculture designation, depending on either the existing agricultural uses, or the agricultural capability of the land. For example, irrigated row crops, or alternatively Class I soils, may be potentially configured in parcels as small as 20 acres.⁸ Because much of the Hearst ranchland is not prime soil but is suited to cattle grazing, it is likely that most new parcels would have to be larger than the minimum allowed in the zone district, as 320 acres is not sufficient to support an economic cow calf operation on its own.⁹ This is not to say, though, that grazing on parcels of 320 acres or smaller is not an economic use of such land, particularly given the single ownership of the Ranch currently, and the fact that individual parcels can and have been combined for the purposes of operating an economic grazing operation. Indeed, in its 1998 NCAP Update review, the Commission concluded that the “Ranch is a viable, in fact, an increasingly viable agricultural operation.”¹⁰ This finding was a precursor to the Commission’s Periodic Review finding that the all of the Hearst Ranch lands not designated Agriculture, except for a limited area at Old San Simeon, should be rezoned to Agriculture (see below for more detail).¹¹

Because of its Agricultural zoning, potential development on the Hearst Ranch is somewhat limited. Table “O” of the SLO County LCP lists a number of land uses that are allowable in the Agriculture zone district. Crop production and grazing and coastal accessways are principally-permitted uses. Depending on its location and intensity, though, new agricultural development may be subject to coastal development permit requirements, particularly if significant disruption of previously un-graded areas or significant new water withdrawals were involved.¹² With the exception of crop raising

⁶ Based on the Certificate of Compliance data provided by the Hearst Corporation and the County of San Luis Obispo, there appear to be two parcels immediately down-coast of San Simeon Acres, one small parcel of 0.17 acres in San Simeon Village; one parcel at Piedras Blancas; and one parcel at San Simeon Point, which is almost entirely west of Highway One.

⁷ Coastal Plan Agriculture Policy 2, CZLUO 23.04.024; NCAP Agriculture standard 1 (p. 8-6).

⁸ CZLUO 23.04.024.

⁹ In its 1998 review of the NCAP Update, the Commission observed that prior analyses have supported a viable minimum parcel size for grazing on the Hearst Ranch closer to 1800 acres. (NCAP, p. 113). The Ranch does support row crops/irrigated agriculture in certain locations.

¹⁰ NCAP, p. 108.

¹¹ Even in the event that existing individual parcels of the Ranch were sold off, grazing or other agricultural uses would still need to be considered as a potential viable economic use of the parcel, given the possibility of leasing the property for grazing purposes in conjunction with surrounding properties.

¹² Although the LCP (CZLUO 23.03.040) states that crop production and grazing is exempt from coastal permit requirements if less than one-half acre of native vegetation will be removed, this exemption may not

Exhibit 9.1: Public Comment—Letters

and grazing and public accessways, though, all of the other uses allowed on Agricultural lands are conditional uses that require special findings to be approved.¹³ For example, most of the “non-agricultural” uses allowed on Agricultural lands may only be contemplated as “supplemental” uses necessary to keep an agricultural land use viable.¹⁴ In order to approve these uses at all, a showing must be made that the use is necessary to economically support the Agricultural operation, and further, that all measures have been taken to locate the new non-agricultural use off of prime soils and other productive land, that the use of Agricultural land for the new use is minimized, and that only a maximum of 2% of the lands is used for the supplemental use, with the remainder being placed in an agricultural or open space easement.¹⁵ For example, some non-agricultural uses, such as dude ranches or petroleum extraction, may be allowed in the Agriculture zone if they are needed to supplement the farmer or rancher’s earnings so that the agricultural use of the property can be maintained. If such a supplemental use is approved, the remainder of the property is required to be placed in an Agricultural easement to assure the protection of remaining agricultural lands.¹⁶ Maximum future development is required to be restricted to agricultural uses, farm labor housing, and a single-family dwelling accessory to the agricultural use.

As suggested by the supplemental use requirements, the LCP also contemplates that residential development may occur in the Agriculture zone, but only as a necessary adjunct to the agricultural land uses of a property. As stated by the LCP, two purposes of the Agriculture Zone are “to designate area[s] where agriculture is the primary land use with all other uses being secondary, in direct support of agriculture” and “to designate areas where rural residential uses that are not related to agriculture would find agricultural activities a nuisance, or be incompatible.” In other words, agricultural areas are not intended for rural residential land uses. Thus, the LCP also describes the character of the Agricultural zone, in part, as “[a]reas where the residential uses allowed are for property owners or employees actively engaged in agricultural production on the same property.”¹⁷ The LCP is clear that any residential development on Agricultural lands should be subordinate to and/or accessory to the Agricultural use. CZLUO Section 23.08.167 limits residential use to one primary dwelling *accessory* to the agricultural use

be valid pursuant to Coastal Act section 30610 and corresponding regulations. Although CDP requirements may apply, agricultural cultivation activities such as land preparation are exempt from grading permit requirements (23.05.026).

¹³ Other than the two uses designated as Principally-permitted, other uses listed in Table O are designated as “allowable,” “special” permitted uses (such as single-family homes) or not allowable at all. As the Commission has found in the Periodic Review, Table O is also not entirely consistent with Coastal Act section 30603, which identifies any development that is not designated as **the** principally-permitted use as an appealable development (Table O shows two PPU in the Agriculture category, thus, neither is designated as **the** PPU for the zone category).

¹⁴ SLO Coastal Plan Policy 3. CLLUO 23.04.050(a) defines “supplemental non-agricultural use” as “uses allowed by Coastal Table “O” in the Agriculture category that are not directly related to the principal agricultural use on the site.”

¹⁵ Coastal Plan Agriculture Policy 2, CZLUO 23.04.050.

¹⁶ See A-3-SLO-00-156 (Crowther) for a recent Coastal Commission decision and example of the application of the SLO LCP non-agricultural use requirements. The permit approved a Bed and Breakfast within an existing SFD and required an agricultural easement over the remainder of the 193 acre site.

¹⁷ SLO LCP, Framework for Planning, p. 6-12, 6-13.

Exhibit 9.1: Public Comment—Letters

of a parcel. Additional dwellings are only allowable in the form of necessary farm labor housing. The LCP also requires that housing avoid prime soils where feasible and incorporate whatever mitigation measures are necessary to avoid impacts to agricultural land.¹⁸ Because rural residential development is not an allowable use in the agricultural zone (“Rural Lands” is a separate land use designation if the LCP), any such development, if approvable at all, would trigger the agricultural easement requirements of the LCP.¹⁹ In the event of an LCP amendment to convert Agricultural lands to rural residential land uses, an agricultural conservation easement also would likely be required in order to meet the requirements of Coastal Act sections 30241 and 30242.

As discussed in more detail below, in addition to these zoning limitations and performance standards for the agriculture zone, there are also a number of planning standards that limit the size and location of new development. For example development (including access roads) cannot be located in Environmentally Sensitive Habitats, or on slopes over 20%.²⁰ Health and safety requirements mandate adequate water, septic systems and safe roads to serve new development.²¹ Other standards require that new development stay out of the public viewshed if possible.²² This policy would prohibit the location of new development on most of the west side of the highway because other than four or five parcels, the parcels with shoreline frontage also extend inland of the highway.

Given the current regulatory framework for the Agricultural lands of the Hearst Ranch, the new development potential in the coastal zone under existing conditions appears limited. Table O of the LCP restricts non-agricultural uses to situations where a supplemental use is necessary to sustain an agricultural operation. Residential development is limited to housing in support of or accessory to agricultural uses (as distinct from “rural residential development”). In the event that individual parcels of the Ranch were sold into separate ownership for purposes of development separate from the current agricultural operation, the LCP would require that a range of development constraints and requirements be analyzed. This would include analysis of the agricultural capability of the land and options for maintaining its agricultural use, the availability of site access, adequate water supply and septic capacity, road and building sites on slopes less than 20%, and whether a site contained sensitive habitats, geologic hazards, archeological resources, etc.). Based on a preliminary review, many of the parcels granted Certificates of Compliance on the Hearst Ranch appear to be located on steep, remote, significantly constrained portions of the ranch. In conclusion, the present zoning and planning standards applicable to development proposed in the Agriculture zone

¹⁸ Coastal Plan Agriculture Policy 4, CZLUO 23.04.050(a).

¹⁹ In those limited circumstances where the Commission has approved rural residential development in the Agricultural zone, an agricultural easement has been required over the remaining agricultural lands. See, for example, A-3-SLO-99-014 & 032 (Morro Bay Limited); A-3-SLO-00-119 (Todd); A-3-SLO-00-040 (Schneider).

²⁰ See ESHA discussion below. CZLUO 23.05.034 allows grading on slopes between 20 and 30% in limited circumstances. However, the overriding land division requirements of CZLUO 23.04.021(c)(7) require that access roads and building sites be located on slopes less than 20%.

²¹ Coastal Plan Public Works Policy 1, CZLUO 21.03.010.

²² Coastal Plan Visual and Scenic Resources Policies 1, 2, 4, 5; CZLUO 23.04.021(c); NCAP Areawide Standards 5, 6.

district substantially limit new development and require substantial mitigation for development that is approved.

Visitor-serving development

The LCP also currently designates three sites for commercial recreational uses on the Hearst Ranch (Staging Area near State Parks visitor facility, Pine Forest at the south end of the ranch and San Simeon Point). A maximum of 650 visitor serving overnight accommodations and associated visitor serving commercial development is permitted if consistent with planning standards and if conditioned to provide substantial public access to the shoreline. As discussed in detail by the Commission in both its 1998 review of the NCAP Update, and the 2001 Periodic Review of the SLO County LCP, meeting the planning standards for visitor-serving development on the Ranch may be very difficult.

For example, in order to approve any visitor serving use, the applicant must demonstrate that adequate water is available to serve the new project. As discussed at length in the staff report prepared for the proposed North Coast Update adopted by the Coastal Commission in 1998, the availability of a reliable water supply to serve new major development is very much in question because assumptions made in the early 1980's when the plan was being prepared regarding the ability of the ranch creeks to produce water in the quantities needed while avoiding impacts on habitat and agriculture now appear unrealistically optimistic. Current estimates of the "safe yield" of Arroyo de la Cruz, the water source for the visitor serving development, is given at 430 acre feet per year while water requirements for the proposed visitor serving development is estimated at 1400 Acre feet per year.²³

Other Plan policies relevant to maintaining an acceptable level of service on Highway One, protecting Environmentally Sensitive Habitat and viewshed considerations also serve to significantly limit the amount of new visitor serving development that actually is approved. For example, the NCAP requires that Highway One be maintained at an acceptable LOS. As discussed in the Periodic Review, it is unclear whether this standard could be met, even with only partial development of the visitor-serving plan for the Ranch. Finally, approval of visitor serving development triggers a requirement for substantial amounts of public access at San Simeon Point and elsewhere along the Hearst Ranch shoreline.²⁴

Overall, in the NCAP report, the Commission found that three of the locations where potential visitor-serving development is currently identified in the LCP (San Simeon Point, State Parks Staging Area, and the Pine Forest) be eliminated, and that any future visitor-serving development be consolidated at San Simeon Village. The Commission also found that the current land use designation that potentially allows for a golf course at San Simeon was not consistent with the Coastal Act, and denied the expansion of the

²³ NCAP, p. 61.

²⁴ San Luis Obispo LCP, North Coast Area Plan, Hearst Ranch Standards, Page 8-3 et seq.

Exhibit 9.1: Public Comment—Letters

designation to provide for a golf course. The Commission's recently adopted Periodic Review of the San Luis Obispo County LCP further articulated a planning vision for the Hearst Ranch that took into account changed circumstances and new information since certification of the LCP, and the implementation history of the County's LCP. With respect to the kinds, location, and intensity of development on the Ranch, the Commission Report concluded:

Recommendation 2.9: Update North Coast Area Plan to Protect Coastal Resources of the Hearst Ranch. *Rezone Recreational lands on the Hearst Ranch to Agriculture, update combining designations, and establish LCP standards that require a Land Use Capacity Analysis prior to consideration of any development proposals and LCP amendments for non-agricultural development on the Hearst Ranch. The County should limit the location of such development to concentration in or immediately adjacent to San Simeon Acres if feasible or, if not feasible, to small-scale infill development within the commercial zoning of San Simeon Village. Other than these two locations, no new visitor-serving or other non-agricultural development should be allowed in the public viewshed except for underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events.*

A Land Use Capacity Analysis should include at least the following: a comprehensive agricultural viability analysis for any areas proposed for non-agricultural development; a visitor-serving development supply and demand analysis; a comprehensive environmental constraints analysis, including evaluation of sensitive habitats, in-stream flow habitat values, water availability, groundwater basins, highway capacity, cultural resources, scenic resources, community character and hazardous areas. Specific performance standards that address the concerns raised by the Coastal Commission's 1998 NCAP Findings, such as required water monitoring and highway capacity limits, should be incorporated into the NCAP. Standards for protection of agricultural lands and mitigation of development impacts should be developed, including provision for agricultural conservation easements.

In short, although the current NCAP potentially allows for a certain amount of visitor serving development on the Ranch, other performance standards in the NCAP coupled with current environmental conditions and constraints raise serious questions as to whether any significant visitor-serving development could be approved consistent with the LCP.

HRCF Agreement

As discussed earlier, the proposed HRCF agreement resembles a specific plan or development agreement. In this case, the landowner and the ALC have prepared what is essentially a planning document for the entire ranch that is meant to apply in perpetuity. In particular, the Conservation Easement Agreement contains a number of provisions designed to guide future development on the ranch while protecting generally identified resources. The conservation values to be protected are “ecological, agricultural, and scenic values”.²⁵ These values are discussed and generally identified on pages 2 through 6 of the document and referenced in the “Purpose Section” on page 8. Baseline studies that are not currently completed and will not be made available to the public, will be undertaken to map and otherwise characterize existing identified conservation values and interests on the ranch as well as existing development. Conservation values will be protected by prohibiting new development that would “substantially impair conservation values for more than a transient period of time” (Conservation Easement, “Purpose” page 9). While this standard may provide some degree of protection for the identified resources if effectively enforced, it is less stringent than the equivalent standards in the Coastal Act and the SLO LCP (see below for more detail).

The proposed Conservation Easement also limits the kinds, density and location of new development on the ranch. A summary of permitted uses under the terms of the easement is given on page 6 (H) of the agreement as a small inn (maximum of 100 units and other visitor serving uses to be located in Old San Simeon Village, all existing uses (to be identified in a confidential baseline study), limited industrial, commercial and recreational uses and 27 new “owner homesites”. Subsequent sections of the agreement provide more specific identification of the development authorized under the easement as follows;

1. New and expanded ranch facilities (Page 9, Section 3a)
2. Enlargement and replacement of existing non-residential and residential structures (Page 10, Section 3b and c)
3. 25, 25 acre owner homesites in five “cluster” areas (Page 10, Section 3d)
4. Two large owner homesites.
5. Employee housing for inn workers as required by regulatory agencies acting on the permit for the project to be located adjacent to San Simeon Acres (Page 10, Section 3e)
6. Replace/enlarge existing aircraft runway and associated facilities (Page 11, Section 3g)
7. Agricultural use, 3000 acres intensified crop production of which 300 acres may be vineyard and 300 acres may be orchard (Page 15, Section 9a).
8. Oil and Gas Development, limited to 5 acres (Page 13, Section 7a)
9. Mineral Extraction, limited to 5 acres (Page 14, 7b)
10. Maintain, replace, repair, relocate existing roads (Page 14, Section 8).

²⁵ ECA, p.3 (D)

Exhibit 9.1: Public Comment—Letters

11. All uses allowed under existing Agriculture zoning as shown on Table “O” of the Certified LCP with minor limitations as shown on Exhibit F-2. (Page 15, Section 9a, exhibits F-1 and F-2). Winery allowed only for processing of grapes grown predominately on the easement area.
12. Repair, replace, expand existing ranch employee housing, construct an additional 15 units of ranch employee housing (Page 16, Section 10b and c).
13. Resubdivision of the ranch to merge parcels and create 25 “owner homesites”, 2 large parcel “owner homesites, Headquarters parcel, Pico parcel and, perhaps, Junge parcel (required to implement key provisions of the agreement).

The agreement thus provides for a substantial amount of new development. The following paragraphs summarize the various development components and discuss the planning and regulatory actions that would be needed to implement them.

Table “O” Development: As summarized above, new development permitted by the existing agricultural zoning would, with some limitations, be permitted on the ranch under the terms of the agreement. Of the forty-six uses listed by the LCP as allowable in the Agriculture Zone District, five (fast food restaurants, aquaculture, stone and stone products, public safety facilities and bed and breakfast establishments) are specifically prohibited by the HRCF and fourteen others are limited in either scope or location (See Exhibit F-1 and F-2). Because these uses are already provided for in the existing LCP, no amendment to the LCP would be required to apply for their development on land zoned for agriculture, however a Coastal Development Permit would be need to construct any project.²⁶ With the possible exception of crop production and grazing, all of these permits would be appealable as conditional uses.²⁷ Given the various constraints to development on the ranch, some of the development allowed by Table “O” as restricted by the easement, such as a winery, may be problematic or require significant conditions and mitigations to proceed.

25 Owner Homesites: The Conservation Easement contemplates the creation of five residential areas to accommodate a total of 25, 25 acre homesites each with a five acre building envelope and a twenty acre buffer area. Current zoning, which requires a *minimum* parcel size of 320 acres, does not permit the creation of 25 acre sites for residential use in the Agriculture Zone District thus an amendment to the LCP would be required to implement this key feature of the agreement. Such an amendment request would need to address the Coastal Act requirement to maintain the maximum amount of agricultural land, and include a specific evaluation of whether agriculture was no longer feasible in the areas that would be converted to residential use. If a finding could be made under Coastal Act section 30241 or 30242, the amount of land necessary to provide for a non-agricultural use would be minimized, in order to protect agriculture to the maximum extent feasible. An agricultural easement over remaining agricultural areas would likely

²⁶ This would not include the Rural Residential uses anticipated by the HRCF, which would require an LCP amendment to be initially authorized.

²⁷ As mentioned previously, though, crop production and grazing has not been designated as the PPU for the zone, which raises questions as to whether it might be appealable as well.

Exhibit 9.1: Public Comment—Letters

be required as well. In addition, pursuant to section 30242, a finding of consistency with section 30250 appears necessary, which would require that development potential on the remainder of the Ranch be concentrated in the proposed residential development locations, if any. If agricultural conversion could be supported, it would probably be in much tighter clusters than presently proposed by the HRCP. In addition, recommended building envelopes would be considerably smaller than the five acre envelopes contemplated by the agreement.²⁸

An LCP amendment to establish residential development clusters would also need to be evaluated for consistency with section 30240 (ESHA) and 30251 (visual) policies that would address the need to keep new development, including roads and accessory structures out of the public viewshed, and avoidance of any impacts to environmentally sensitive habitat areas.

It is also worth noting that although the HRCP appears to contemplate multiple land divisions and/or LCP amendments to establish the residential clusters, it is likely that such piecemeal conversions of agricultural lands could not be considered except in the context of a single comprehensive amendment for the entire Ranch. This is because the evaluation necessary to establish the appropriateness of any non-agricultural development areas (as well as other constraints) could not be adequately accomplished absent a full understanding of all potential development areas and restrictions on remaining agricultural lands that would necessarily be defined by the proposed residential subdivisions.

Assuming an LCP Amendment could be approved, development of the homesites would require a Coastal Development Permit to resubdivide the ranch to create the parcels and then a permit for each residence. All of these permits would be reviewed under the LCP, as well as Coastal Act public access policies, and would be subject to any restrictions necessary to ensure compliance with the applicable policies and zoning ordinances.

San Simeon Village Visitor Serving Project: This component of the development allowed by the Conservation Easement provides for a 100 unit inn and associated visitor serving uses at Old San Simeon Village and employee housing as required by the permitting agency (San Luis Obispo County or Coastal Commission) on a site immediately adjacent to San Simeon Acres. Some of the area proposed for the inn is already designated for visitor serving development and thus an LCP amendment may not be required to propose a project on this site.²⁹ The site for the employee housing is, however, currently zoned Agriculture and an LCP amendment would be required to develop employee housing on this site. Approval of an LCP amendment is not assured because the findings for converting agricultural land to another use are difficult to make and a key public service, water, is not available to serve the housing. Currently San

²⁸ Again, see, for example, Commission appeals of Morro Bay Limited and Schneider residential projects on the Harmony coast.

²⁹ Additional analysis of existing certified zoning is needed to determine whether the proposed development area of the HRCP falls within existing appropriate zoning.

Exhibit 9.1: Public Comment—Letters

Simeon Acres is under a water moratorium as there is insufficient water to serve any additional development in this small community.

Coastal Development Permits would also be required for all the visitor serving/employee housing development. The existing LCP contains a number of policies to address the various issues that would be raised by this project (visual, geologic hazard, agriculture protection, infrastructure, Environmentally Sensitive Habitat and public access). These issues are discussed in greater detail elsewhere in this analysis, however, of these issues, infrastructure is particularly important because the availability of water and road capacity consistent with LCP requirements appears problematic based on information developed as part of the 1998 North Coast Update and the 2001 Periodic Review of the San Luis Obispo LCP. Highway One capacity and the existing NCAP standard that prohibits widening of the Highway may be particularly problematic.

2 Large Parcel Homesites, Headquarters, Pico and Junge Parcels: Creation of these parcels would require a Coastal Development Permit which would be most efficiently accomplished as part of a resubdivision of the whole ranch. This would also implement the goal of the Conservation Easement to reduce parcels on the east side of the ranch to 25 cluster homesites, 2 large parcel homesites, Headquarters, Pico and (maybe) Junge parcels. Issues relevant to the creation of these large parcels include impacts on agricultural use, visual resources and habitat.

“Fall Back” Residential Development: The Conservation Easement gives the landowner the option of locating the 25 homes proposed in the five residential clusters to other locations on the ranch if homes proposed on the cluster sites are “denied, unreasonably delayed or unreasonably conditioned” (Page 5, Exhibit H). As discussed in preceding paragraphs, the Agricultural Zoning allows single-family homes but requires that they be directly supportive of the agricultural use of the property. The proposed easement does not place this limitation on the homes but this would present an issue at the time they are analyzed for permitting purposes. Other issues relative to impacts on sensitive habitat, the public viewshed, continuing agricultural use and location in a geologic hazard or very steep areas would also be factors depending on the specific proposal. In a recent Commission appeal, for example, the Commission approved a single family home in an area of the County zoned Agriculture but limited the building envelope to 5000 square feet and extensively conditioned the project to mitigate impacts on habitat, farm land and visual resources.³⁰

PUBLIC ACCESS AND RECREATION

A. Existing Conditions

The San Luis Obispo County coastline offers tremendous opportunities for public access and recreation for residents and visitors alike. A key element is the highly scenic San Simeon coast, where Highway 1 closely parallels the coastal bluff edge north of Cambria.

³⁰ Schneider, *Id.*

Exhibit 9.1: Public Comment—Letters

Most of this approximate 25 mile stretch falls within the Hearst Ranch. A maze of rocks, islets, coves, tide pools, estuarine lagoons, forested headlands, and beaches large and small punctuate the seaward vista. Inland, a vast sweep of oak and pine-studded grazing lands leads the eye to the bold skyline of the Coast Ridge Divide. This is the southern threshold of the Big Sur Coast. It is easy to see why this spectacular segment of the Coast Highway was recently designated a National Scenic Byway.

Economic importance. Residents and visitors are drawn to this part of the coast for a wide range of access and recreation activities, including sightseeing, camping, hiking, nature viewing picnicking, sitting on the beach, collecting shells/driftwood, photography, painting, and watching marine mammals. Popular water sports include surfing, kayaking, windsurfing, fishing, diving and boating. According to the California Division of Tourism, beach and waterfront activities are second in popularity only to general touring and sightseeing for visitors to California.³¹ There is a considerable amount of informal recreational use of the rural north coast shoreline.

A significant portion of San Luis Obispo County's economy stems from its status as a tourist destination. In 1997, travel expenditures in the County were \$856 million.³² According to the 1998 Economic Outlook for San Luis Obispo County as detailed by the UCSB Economic Forecast Project,³³ the County as a whole attracted over 5.3 million visitors in 1997, including 4.5 million overnight visitors. Hearst Castle and the surrounding scenic landscapes, coupled with the nearby shoreline recreational opportunities, are the keystone attractions that drive this economic engine.

Vertical and lateral public access. Along the 96-mile shoreline of San Luis Obispo County, there are 10 state parks and a number of smaller local parks providing access to the coast. Public parklands provide both vertical and lateral coastal access. About 18.9 miles, or 20% of the County's shoreline falls within the boundaries of the Hearst Ranch-Junge Ranch area. Only one public park is located along the Hearst Ranch shoreline, the very small W.R. Hearst Memorial State Beach at San Simeon Cove. However, other public access opportunities (and potential opportunities) exist in the area. Some of these are legally secure for the long run, others could be subject to closure.

Existing access opportunities along the San Simeon Coast include five improved overlooks provided by Caltrans along Highway 1, a small beach at the Piedras Blancas Motel, and beach access at the San Simeon Acres commercial enclave³⁴. Approximately 1.9 miles of bluff top is owned by Caltrans south of Old San Simeon village, with three additional "Turnout Easements" located along the shoreline south of Piedras Blancas Point.

³¹ California Travel Impacts by County, 1992-1998 prepared by Dean Runyan Associates, for the California Division of Tourism. March, 2000, from <http://gocalif.ca.gov/research/county.html>.

³² Ibid.

³³ <http://ucsbuxa.ucsb.edu/efp>.

³⁴ California Coastal Access Guide, sixth edition, California Coastal Commission, Univ. of Calif. Press, 2003.

Exhibit 9.1: Public Comment—Letters

Nearly all the Hearst Ranch lands seaward of the highway are available to the public on a permissive use basis, with immunity provided with respect to the liability issue³⁵. This form of use is potentially subject to revocation by the landowner; however, as noted below, this would be subject to clarification of prescriptive rights that may have accrued by the public's use of these lands for decades. Further, the Caltrans turnout easements are linked to the highway easement in the northern part of the ranch and may not necessarily be available over the long run as the highway is realigned from time to time. The highway easement, accepted by the State of California in 1938, specifies that abandoned right of way areas revert to the grantor, i.e., the Hearst Corp.³⁶

Additional shoreline access opportunities, on managed public recreational lands but not yet opened for general public use, include the former Piedras Blancas Light Station property managed by BLM (0.2-0.5 shoreline miles, depending on how measured); and, the northern portion of San Carpoforo Beach, acquired by the U.S. Forest Service. The Forest Service's ownership at this beach is not counted within Hearst Ranch frontage although it is adjacent and currently provides access onto the public portion of the beach along the seaward perimeter of Hearst lands at San Carpoforo.

In summary, between San Carpoforo Creek and the northern boundary of San Simeon State Beach, legally secure public access (including the Point Piedras Blancas lands held by BLM and the San Carpoforo Beach lands recently acquired by the Forest Service) is possible along a little over 2 miles of the overall Hearst Ranch shoreline. An additional roughly one- mile of bluff top, at Piedras Blancas and San Simeon Acres, is under non-Hearst private ownerships. Public use of the balance, nearly 16 miles, could be subject to either termination or revocation by the Hearst Corporation in the absence of the legal establishment of rights due to historical public use; although public use within the Caltrans' Highway One right of way is possible. (According to Caltrans' 1938 easement with Hearst,³⁷ a total of 80 feet in width is available to Caltrans for highway purposes.)

California Coastal Trail. The entire beach and coastal terrace frontage of the Hearst Ranch (including the Junge Ranch property) is physically suited for lateral hiking access, and already informally functions as a segment of the California Coastal Trail (CCT)³⁸. This approximately 19 mile segment of the CCT is bracketed on the north by the Williams Ranch addition to Los Padres National Forest, and on the south by San Simeon State Beach. As it exists now, there is no fixed alignment and no formal improvements. Streams are crossed by wading during low-flow periods, or by following the beach and crossing on the river-mouth bars that form during the summer season. However, seasonal

³⁵ Provided that the visitor enters for recreational purposes only, and is not expressly invited (Civil Code Section 846, as cited in Limitations on Liability for Nonprofit Land Managers, 2nd edition, California Coastal Conservancy & California Coastal Commission technical bulletin, 1997).

³⁶ Grant of easement for highway right of way, from Hearst Sunical Land and Packing Corporation to State of California, dated Dec.27, 1938 and accepted Dec.30, 1938.

³⁷ Ibid

³⁸ See Hiking the California Coastal Trail, Volume Two: Monterey to Mexico, Lorentzen and Nichols, 2000 (pp. 91-116).

Exhibit 9.1: Public Comment—Letters

detours are necessary to safely cross the major streams, and to avoid beaches preempted by elephant seals.

The beach is not continuous, so informal bluff top paths or the edge of Highway 1 must be employed to bypass seasonal and landform obstacles. In some places, the paved shoulder is wide enough to accommodate bicycles and pedestrians. But, along much of the highway there is little or no separation from motor traffic—meaning that for hikers and bicyclists, the recreational experience is neither as safe nor as enjoyable as it should be.

In a joint Coastal Conservancy-Coastal Commission-State Parks report to the Legislature, specific recommendations are provided for completing the CCT³⁹. The first recommendation listed for San Luis Obispo County is: “Design a public trail west of State Highway 1 from the Monterey County line south to San Simeon to provide safe pedestrian access that will avoid degrading sensitive habitat areas, and work with private landowners to acquire necessary access rights.”

The report also identifies the Alignment Principles for the coastal trail. These principles include:

- a. Proximity (to the sea)
- b. Connectivity (“create non-automotive connections that are sufficiently appealing to draw travelers out of their automobiles”)
- c. Integrity (no gaps, and effective separation from motor traffic)
- d. Respect (for protection of natural habitats, cultural and archaeological features, agricultural operations, private property rights)
- e. Feasibility (including interim and long-term alignments).

The Integrity Principle, in particular, deserves attention. It states: “The Coastal Trail should be continuous and separated from motor traffic. ...Where such separation is absent, the safety, pleasure, and character of the trail are impaired. Appropriate separation can take many forms. Substantial horizontal distance is generally the most desirable, thus avoiding the sight, sound and scent of the internal combustion engine. ...”⁴⁰

Inland public access in the coastal zone. At present, the only opportunity for the public to access the inland portion of the Hearst Ranch is via the State Park facilities associated with Hearst San Simeon State Historical Monument, including the visitor center, the connecting shuttle corridor, and Hearst Castle itself.

Historically, the San Carpoforo Trail--said to be the Portola Expedition’s route--provided both an east-west and north-south connection, between San Simeon in San Luis Obispo County, and Jolon and King City in Monterey County. The trail extends from the coast, along San Carpoforo Creek through what is now the Hearst Ranch’s northernmost valley,

³⁹ Completing the California Coastal Trail, State Coastal Conservancy, January 2003, submitted pursuant to SB 908 of 2001.

⁴⁰ Completing the California Coastal Trail, p.16.

Exhibit 9.1: Public Comment—Letters

inland to the Polar Star Mine, and on through the Windy Point Gap to the Baldwin Ranch in Monterey County, then over the Coast Ridge Divide to San Antonio Mission (within Fort Hunter Liggett, once also part of the Hearst Ranch).

Another inland route, parallel to the coast, is the Coast Ridge Trail. The U.S. Forest Service historically maintained the approx. 70-mile ridge route north of the S.L.O. County line⁴¹. The final 12 miles between Twin Peaks and Carmel was only recently acquired through the Big Sur Land Trust, and is being turned over to public agencies for management. Southbound hikers on both the Coast Ridge Trail and the San Carpoforo Trail are blocked at the Hearst Ranch boundary. However, due to recent Forest Service acquisitions, a rugged detour is now possible from the upper San Carpoforo Creek valley (Baldwin Ranch), over the Mt. Mars-Bald Top Divide, and precipitously down a fire road to Ragged Point Inn.

An improved ranch road crosses the Hearst Ranch, via Burnett Creek, and once connected the San Simeon ranch headquarters to the northern ranch areas (now Fort Hunter Liggett) via Little Salmon Creek. This route is not available to the public.

Establishing and Protecting Public Access. To fully understand important aspects of the HRCF as it relates to public access, a review of how public access rights to and along the shoreline might be established and protected is helpful. The right of public access is typically validated, or acquired, through a variety of means. These include:

- a. purchase or donation, to obtain fee simple ownership (e.g., W.R. Hearst Memorial State Beach);
- b. purchase or donation of a less-than-fee interest such as an easement (e.g., the existing State Highway right of way, north of the entrance to Hearst Ranch headquarters);
- c. through exercise of eminent domain;
- d. through revocable general permission of the owner (as with Hearst's "permissive use" policy pursuant to Civil Code Section 813) or other agreement with owner;
- e. through prescriptive rights, which must be established by a Court on the basis of historic use (would require evidence of such public use prior to the date of permissive use doctrine on the ranch, which was filed by Hearst Corporation in 1972);
- f. as an integral element of a permitted coastal development project, as at Ragged Point Inn (usually incorporated in project design prior to review by regulatory agencies); and,
- g. as mitigation for public access that is blocked, degraded or impaired by a coastal development project, or would otherwise result in a nexus with respect to public access (usually required in the form of conditions on a coastal development permit).

⁴¹ *Los Padres National Forest (Monterey Ranger District)*, Forest Service Class A map, 1966.

Exhibit 9.1: Public Comment—Letters

If an offer of dedication is warranted pursuant to a coastal development permit, a certain proportionality is expected. That is, the extent of the mitigation should be roughly proportional to the severity and impact of the project. Thus, large scale developments, especially those that might block the shoreline with golf courses or exclusive commercial development, or burden the coastal zone with non-priority residential development, would (if permitted at all) need to provide substantial mitigation to offset the impacts to public access. The current SLO LCP anticipates this situation if the review process concludes that development is allowable within the recreationally zoned lands by requiring the provision of public access along the shoreline concurrent with any development.

San Luis Obispo County contains numerous such examples of public access rights that have been protected in this manner, that is, through the regulatory process. Most of these are smaller coastal accessways, principally access easements acquired through Offers to Dedicate Public Access (OTDs).⁴² Recorded OTDs are a primary tool used to mitigate for new development in the coastal zone. While it is believed that none of the OTDs to date have involved the Hearst Ranch, it can be expected that such dedications might be required in the future—provided, of course, that a coastal development proposal involves a public access nexus and is permitted.

B. Proposed HRCF Access Provisions

Although certain components of the HRCF related to public access remain to be further detailed, several draft documents currently available for review implicate public access issues under the Coastal Act and SLO's LCP. These include the direct transfer of over 800 acres to the State Department of Parks and Recreation (DPR) and a potential additional conveyance of nearly 120 acres to DPR if pending legislation to allow tax credits passes. All of these lands would pass to DPR with a "scenic" conservation easement on them that is being purchased by Caltrans as a component of the overall HRCF. In addition, a public access easement on over 600 acres is being granted by Hearst to (DPR) to allow for the development and management of a segment of the CCT and for "public access over the Trail and certain other trails connected thereto" on land to be retained in Hearst ownership on the west side of Highway One.

⁴² OTDs are recorded legal documents which offer easement interests in private land to a government agency or nonprofit organization. The interest offered runs with the land, meaning that subsequent owners of the parcel are legally bound to the recorded "offer" to provide for future public access. Typically the offers expire 21 years after the recording date if they have not been accepted by a managing agency. Once an OTD has been accepted, the accepting entity becomes the holder of the easement, which then remains in the public domain. Access OTDs can be of three types: vertical, lateral and trail. Generally, areas lying below the Mean High Tide Line (MHTL) are always in public ownership and may be accessed any time by the public. However, in many cases the dry sandy beach landward of the MHTL is privately owned, and as such, is not available to the public.

Public Ownership Conservation Area

Under the HRCF Hearst will convey fee title to an approximately 832 acre portion of the Ranch west of the Highway to DPR described as the “Public Ownership Conservation Area.” The public review documents on this aspect of the HRCF are limited to the draft Gift Deed for Public Ownership Conservation Area, the Westside Conservation Easement to Caltrans (CalTrans will pay \$23 million for this scenic easement over lands to be subsequently gifted to DPR) discussed below and the general Conservation Overview Transaction Map (that is difficult to read in its web version).

From north to south, the first area of transfer will be the portion of San Carpoforo Beach that Hearst owns south of the creek between the MHTL and the toe of the bluff. Further south of the Ragged Point area being retained by Hearst, the largest portion of this transfer falls west of the highway between the first stream south of Breakers Point and just south of Arroyo de la Cruz, consisting of coastal terrace bench lands and the Pt. Sierra Nevada dune fields. Connected to these lands is a narrow strip between the Highway and ocean continuing southward to the private in-holdings north of Point Piedras Blancas. These in-holdings (non-Hearst lands) extend through the current Piedras Blancas Motel properties and the lands to be gifted in fee to DPR begin again in a narrow segment west of the highway at the southern Motel property line, through and along Point Piedras Blancas (the tip of which is owned by the Bureau of Land Management), and ending at the mapped San Simeon Point. A sliver of beach land just south of the W.R. Hearst Memorial State Beach at San Simeon Cove will connect existing public lands, then another narrow band in the vicinity of Little Pico Creek will connect other existing public lands west of the highway.

According to the summary documents of this HRCF, the lands to go to DPR include 13 beaches and will allow for 13 miles of the CCT. These beaches, however, vary in size, accessibility and use potential.

Under the provisions of the gift deed from Hearst to DPR for these lands, Hearst will retain “exclusive grazing rights to use the land for the grazing of livestock and other incidental uses...consistent with a grazing management plan.” DPR will, however, have the right to suspend these rights if it determines that grazing should not be allowed on the property. Notably, this property will come to DPR with the restrictions of the westside “Caltrans Scenic Conservation Easement” placed on it. Relative to public access, that includes provisions for allowing a continuous CCT provided that it is accessed only in the “daytime hours” beginning no sooner than a half hour after sunrise and no later than a half hour before sunset. Only “noncommercial passive recreation use” is allowed (although not defined) and fires are prohibited. In addition, those scenic easement restrictions on this land will allow for “public access facilities, including the utility facilities needed to support public access facilities” so long as the public access facilities, including restrooms and parking facilities, are located outside of the viewshed of Highway One.

Exhibit 9.1: Public Comment—Letters

It is unclear whether or not Hearst will be gifting these lands to DPR with a limitation of the area in which alignment of the CCT may be considered, as Hearst is doing with the “Public Access Easement Area,” although a representative from ALC has indicated to staff that they are not intended to be so restricted by the agreements. There is no specific map of the lands to go to DPR attached to the draft gift deed and these areas can only be seen on the general Conservation Overview Transaction Map. However, several of the maps provided on the web site of the “Public Access Easement Area” include portions of the lands to be transferred to DPR in fee with the same yellow shading showing the CCT alignment area next to the western edge of Highway One’s right-of-way in what appears to be, on average, a 50-80 foot wide band.

Junge West Side Conservation Area

This approximately 117 acre site west of Highway One and immediately south of San Simeon Acres will also be transferred to DPR via the gift deed described above if tax credits are made available to Hearst through legislation at the closing, or phased closing, of the HRCF escrow. The Junge west side properties will have the same public access restrictions of the westside “Caltrans Scenic Conservation Easement” (described above), except that draft documents indicate language would be developed to allow for walk-in, primitive campsites on these lands outside of the Highway One viewshed. There is no indication of what kind of allowances will be made for the siting of the CCT alignment in this area.

Public Access Easement Area

This “Public Access Easement Area” covers three areas shown on the maps as: San Simeon Point Conservation Area, Pico Cove Conservation Area, and Ragged Point Conservation Area. Land subject to this easement will be retained in Hearst ownership.

The primary purpose of the Public Access Easement is for permanent and perpetual public access while preserving “the scenic beauty and natural qualities” of the area, limiting erosion, and protecting and maintaining “any private or public investment made in obtaining [this] Easement.” The easement prescribes “access parameters” under which DPR is to develop a “Public Access Plan” sometime in the future, subject to Hearst’s approval, which is to be based upon the access parameters.

Among these parameters is the CCT alignment. While the maps available for review on the web site are difficult to read, the vast majority of this alignment area is along the western edge of Highway One’s right-of-way in what appears to be, on average, a 50-80 foot wide band. The draft recommendations for public access call for identifying one management organization for all three of these public access easements areas, to be approved by Hearst. They also note that visitors should be advised of the safety concerns of using the CCT because it is near Highway One traffic lanes. DPR is to maintain and repair the trails and facilities authorized in the Access Plan.

Exhibit 9.1: Public Comment—Letters

Under the terms of the easement, until the Public Access Plan is completed, approved by Hearst, and implemented, access to the entire easement area is at the sole discretion of Hearst. In the event that DPR wishes to reassign the easement, it must first offer it to the American Land Conservancy. Amendments to the easement are allowed in the future if agreed to by Hearst and whoever may be the current holder of the easement.

San Simeon Point Conservation Area

The San Simeon Point Conservation Area access parameters also call for the development of an access plan by a steering committee composed of Hearst, ALC, SCC and other “selected state agencies and citizens;” recommendations for this plan have already been conceptually agreed upon by Hearst and DPR. These include controlled access on designated trails between bluff top lookouts and allowing for no more than 100 people per day, not less than 300 days per year, with a schedule to be approved by Hearst. Only one single point of entry near Old San Simeon Village is recommended, along with fencing of the public area up to this gated entrance. Two existing trails from San Simeon Cove Beach are recommended to be closed, beach access on the bay side of the Point is marked for closure and no other shoreline access appears to be provided.

Access is allowable only during “daytime hours” which is defined, for the longest period, as a half hour after sunrise and a half hour before sunset. Recommendations would allow for more limited hours depending on the season and availability of staff. Several other restrictions are called out, including prohibitions on picnics, pets, alcohol, fires, games (including kite flying, Frisbees, etc.), camping and bikes or motorized vehicles. No children under the age of 18 will be allowed without an adult, scientific research is limited only to a defined area, and educational use is permitted at the sole discretion of Hearst. Cattle grazing is allowed to continue.

Pico Cove/Ragged Point Conservation Areas

The CCT alignment in these areas is located adjacent to Highway One and inland of the property fence and its use is allowed year round, but with the daytime use restrictions noted above. The easement areas seaward of the property fence will be opened for public use on a limited basis and only with docent oversight. The draft recommendations call for shuttling only small groups, with a maximum daily total of no more than 20 people, on one Sunday every three months from San Simeon Point. A north and south trailhead drop off area, the space of one or two vans, is to be fenced and gated to prevent unauthorized parking and camping. No public access “buildings or structures” are allowed in the easement areas. Trash receptacles are to be limited to the docent vans at the trailheads. No restrooms will be allowed and recommendations call for the docent vans to pull a trailered porta-potty for sanitary purposes.

The Public Access Plan to be submitted to Hearst for approval is to include the Pico Cove/Ragged Point areas and provide for essentially the same restrictions and allowable uses as noted above for San Simeon Point; children under the age of 18 would need to be accompanied by an adult. In addition, the plan is to contain a monitoring program in

Exhibit 9.1: Public Comment—Letters

coordination with local sheriff or highway patrol to deter and control trespassing. Because the pastures at the Ragged Point easement area will continue to be used for grazing, recommendations call for scheduling public visits to avoid potential compatibility problems with cattle or other agriculture concerns.

Ragged Point Trails

Four trails are identified for the docent-led tours to be allowed four times a year in the Ragged Point Easement Area, with one additional alternative trail for possible consideration. The recommended access plan notes that many visitors will not be able to cover the distance of all the trails, particularly given the absence of sanitary facilities. The “North Trailhead to Bluff” trail would lead from an existing turnout about a quarter mile south of San Carpofo Creek. This turnout would be turned into a gated and fenced drop-off area where the small groups of visitors would be led by docents along an existing footpath to a bluff overlook of San Carpofo Beach. Side trips along existing footpaths through the pine forest might be added by the docents. An optional trail south from the bluff overlook to provide southward views might be considered.

The “South Trailhead to Beach” trail would follow another existing path leading from a trailhead at Highway One approximately two-thirds of a mile to the south of the northern trailhead and extending to the beach. The third “trail” is a beach walk along the long beach south of Ragged Point and again would only be useable four times a year with a docent leader. The fourth trail called out in the access plan recommendations would follow the CCT alignment next to Highway 1 southward from the south trailhead, including the use of the highway shoulder to cross Arroyo Hondo to join the “Coast Ranch Trail” to a bluff overlook. The return route would either be a retracing of that route or a possible connector inland back to the CCT through a locked gate next to Highway One.

Pico Cove Trails

The Pico Cove area would have two trails available for a small number of docent-led visitors each quarter of the year. The trailhead would begin at another fenced and gated shuttle dropoff about a quarter mile north of Pico Creek. The “Pico Cove North Bluff Trail” would lead from the trailhead north along the bluff to a rocky vista point. The “Pico Cove South Loop Trail” would follow an existing path from the trailhead southward along the bluff with several lookouts and a partial loop back to the midsection of trail through dense chaparral. No beach access would be provided.

C. Coastal Act Policies

The Coastal Act requires that maximum public access opportunities be provided, consistent with public safety and the need to protect private property owners’ rights and natural resource areas from overuse. The Act further requires that development not interfere with the public’s right of access to the sea where acquired through use or

Exhibit 9.1: Public Comment—Letters

legislative authorization. The provision of public access, however, is to take into account whether or not adequate public access exists nearby, or if agriculture would be adversely affected. Oceanfront land suitable for recreational use is also to be protected for recreational use and development under the Coastal Act. Further, the use of private lands suitable for visitor-serving commercial recreation facilities is to have priority over private residential, general industrial or general commercial development. With regard to Local Coastal Program requirements, the Coastal Act provides that each LCP shall contain a specific public access component.

Recognizing that a critical aspect of providing access is not only physical access to and along the shoreline, the Coastal Act also requires the protection and provision of upland support facilities as well as lower-cost visitor-serving and recreational development. In carrying out these policies, the Commission has long found that providing upland support facilities such as directional signing, parking, restrooms, interpretive materials and over-night visitor facilities are important elements in assuring that the public will have maximum access to shoreline recreation areas. Further, expected increases in population, and a corresponding number of visitors that will want to reach and recreate on the coast, need to be factored into public access planning. Agricultural uses, such as grazing, have been found to be compatible with public access along many reaches of the California coast and should not be considered an impediment to managed public access at the Hearst Ranch.

D. San Luis Obispo County Local Coastal Program (LCP) provisions:

The San Luis Obispo County's LCP generally reflects these Coastal Act policies. For example, the LCP requires the protection of existing access and requires that new development provide maximum public access to and along the shoreline, consistent with public safety needs and the rights of private property owners. To carry out this policy, the LCP requires accessways be established at the time of development where prescriptive rights may exist, and specifies how to acquire, measure, and establish accessways. It also requires the provision of support facilities and improvements and states that a uniform signing system program should be developed. In each of the area plans, accessways are mapped and differentiated between type of accessway (vertical, lateral, viewpoint, etc.) and status (proposed, open, etc.).

In particular, the LCP requires that vertical and lateral access be provided in new development. Exceptions are allowed in cases where 1) access is inconsistent with public safety, military security needs, or protection of fragile resources; 2) adequate access exists nearby; or 3) agriculture would be adversely affected. The LCP defines "adequate access" where vertical access exists within one-quarter mile in urban areas, and one mile in rural areas. For the North Coast, the area plan requires that public access be provided for each phase of any future development at Hearst Ranch, specifically at San Simeon Village, San Simeon Point, San Carpoforo, and Arroyo de la Cruz lagoon. Also, related agricultural policies note that trails shall be located along parcel lines that would not significantly disrupt the agricultural operations and that improvement and management

practices shall include developing access trails with fences or other buffers to protect agricultural lands.

Preliminary Analysis & Recommendations

Because of the highly scenic values, rich natural resources, and varied recreational opportunities of the San Simeon Coast, the public has been drawn to it for decades. The recent designation of Highway One in this area as a National Scenic Byway underscores how this coast is appreciated not only across the State and country, but even around the globe. Hearst Corporation's permissive use policy over the years has also contributed to providing virtually continuous, access to and along the San Simeon Coast. Few, if any, other private land holdings along the California coast provide so much freedom of recreational opportunity. On the other hand, there are a number of significant deficiencies:

- a. The LCP lacks a comprehensive Public Access element to guide how access can best be provided in this area of the coast consistent with public safety needs and the rights of private property owners and managed to avoid or reduce any potential impacts on agriculture and sensitive habitats.
- b. It is now physically possible to laterally traverse the San Simeon Coast through a “de facto” interim alignment of the CCT, basically along the highway shoulder, (as described in **Hiking the California Coastal Trail** by Lorentzen and Nichols), with vertical side trips down the many worn paths to the bluffs and ocean. However, the full potential of meeting the vision and policy direction of this significant statewide trail has not been realized in this area. Even with this “de facto” alignment use, there is no clear direction to users for detouring around seasonally sensitive habitats, physical obstacles and hazards. (Nonetheless, the potential experience for the public to use an appropriately-sited CCT along the coast here would rival any other segment elsewhere in California with the stunning views and varied coastal habitats and wildlife found there.)
- c. Affordable, developed recreational support facilities are few and far between along the San Simeon Coast. The use-demand is quite high, particularly with the significant draw of the Hearst San Simeon State Historic Monument, “Hearst

Exhibit 9.1: Public Comment—Letters

Castle,” the most popular destination within the entire State Park System. The only State Park System over-night camping experience available in this region is 5 miles south of the castle and 2 miles north of Cambria at San Simeon State Park where San Simeon Creek Campgrounds offers 115 campsites for tent camping or recreational vehicles, all of which are under high demand and usually require a substantial advance reservation. The paucity of these kinds of support facilities is one of the main reasons that Coastwalk, a nonprofit organization that annually organizes treks throughout most of the State along permanent and interim CCT alignments, is unable to take groups down this section of the San Luis Obispo coast.

- d. Until a full access study is documented and a Court establishes any of the prescriptive rights that the public may have accrued through historic use, there are uncertainties about the public’s continued ability to reach and enjoy this stretch of coast. As long as public recreational access may be subject to revocation under the Ranch’s permissive use policy, the public’s rights of access to and along the shoreline are not completely secure.
- e. Except for site-specific interpretation at State Park facilities (emphasis on historic aspects), and the site-specific interpretive panels and volunteer docents sponsored by the Friends of the Elephant Seal (at Caltrans Vista Points 3 and 4), there is a distinct lack of public educational opportunities concerning the coastal zone environment, the adjacent National Marine Sanctuary, and what constitutes appropriate, respectful visitor behavior in these areas;

Public Access Issues Raised by the HRCF

Rather than addressing the majority of these deficiencies, the net result of the HRCF appears to be a significant diminution of existing public access opportunities along the Hearst Ranch shoreline into the future. It certainly offers no future trail link between the coast and public lands to the east of the Ranch. The variety of HRCF agreements combine to place severe restrictions even on the lands that are being transferred to the State in fee title. While it is recognized that much of the current access is enjoyed under the permissive use afforded by Hearst, the significant resources being invested by the State should ensure that the full access and recreational potential of the San Simeon Coast will be realized by current and future generations rather than being narrowed and curtailed as the current framework of the HRCF agreement does. There are several aspects of the HRCF that raise serious questions and/or run counter to the public interest and policies of the Coastal Act and LCP. For example:

- 1. The scenic easement to be purchased by Caltrans will place several restrictions on the lands west of Highway One that will curb access. Users of the CCT on both the areas being retained by Hearst and being gifted to DPR in fee will only be allowed on the trail a half-hour after sunrise and before sunset. Nowhere in the State has the Coastal Commission approved such a narrow window of use. Further, the area demarcated as being allowed for alignment of the CCT at the three shoreline Public Access Easement

Exhibit 9.1: Public Comment—Letters

Areas being retained by Hearst is along Highway 1, not along the shoreline nor along the bluff edge, where it could be feasibly and appropriately provided in accordance with the published CCT alignment principles. It is unclear if this same restriction is intended to be applied to the lands going to the State as well; however, several of the maps provided with the HRCF include portions of the lands to be transferred to DPR in fee with the same yellow shading indicating the eligible CCT alignment area is to be along the western edge of Highway One's right-of-way. (In any case, the connectors to these easement areas would necessarily be forced to be located next to the highway.)

2. In addition, under the Caltrans scenic easement, "public access facilities," including parking areas, are allowed only if they are located outside of the viewshed of Highway One. The ability to achieve this within the lands to be owned by the State, except at the Junge Ranch properties, is highly questionable, and the areas at Ragged Point, San Simeon Point, and Pico Cove (where such siting is likely possible) are being held by Hearst without any provision for such facilities. Further, the access parameters called out for these areas discuss closing and gating the parking areas that the public currently uses.

Additionally, there are several disclaimers indicating that the Junge Ranch may not be included in the HRCF, and if it is, provisions only for limited, walk-in environmental campsites will be made. While the HRCF allows a maximum of a 100-unit inn at San Simeon Point, there are no provisions to ensure that any low-cost visitor serving facilities will be provided as called for under the Coastal Act and LCP. Similarly, there is no provision for seasonal alternate CCT routing, nor for other passive recreational and support facilities, including footbridges, vista points, interpretative displays, shoreline access stairs, user management structures such as habitat exclusion fencing, nor public health management measures such as restrooms. It is important to note that all of these features could be provided consistent with the scenic protection standards expected along a National Scenic Byway, as shown in the recently completed Coast Highway Management Plan for Big Sur in Monterey County.

This overall situation, combined with the time of use restrictions, significantly restricts the usability of the HRCF's approximately 18-mile stretch of the CCT for most travelers except as a partial day use experience with drop-off and pick-up prearranged, particularly if the Piedras Blancas Motel closes. Such a scenario is squarely at odds with the long held vision for the CCT by State agencies.

3. Although the CCT should be aligned along the shoreline according to the principals guiding the siting of the trail elsewhere, there are questions as to whether or not the 1938 easement currently held by Caltrans might already provide the State with the ability to provide an alternative, improved, continuous walking and biking area along Highway One here. Such uses are recognized by the State as modes of transportation to increase mobility throughout California and would appear to be appropriate uses that could be provided within the 80-foot wide easement area allowed under that agreement.
4. The three shoreline Public Access Easement Areas being retained by Hearst, Ragged Point, San Simeon Point, and Pico Cove, are arguably some of the most prized areas for public use now, particularly San Simeon Point. As summarized above, these areas will be fenced and only small numbers of visitors will be allowed under the HRCF. The "access parameters" of the HRCF call for no more than 100 people per day, no less than 300 days a year, at San Simeon Point and a maximum daily total of no more than 20 people, shuttled in, on one Sunday every three months at Ragged Point and Pico Cove.

Exhibit 9.1: Public Comment—Letters

- These numbers and time periods, however, could be reduced if there is inadequate staffing or a need for seasonal adjustments. There is nothing in the agreement that would guard against the guests of the proposed inn filling a majority of the allowed slots. Nor are there any provisions to ensure that attention will be given to assuring that the public will have access on weekends when they are most able to come to the coast. Further, all touring will be only with a guide and simple activities like picnicking are not allowed, dramatically diminishing the quality of recreational experiences the public now enjoys at these locations. In addition, only at Ragged Point is any beach access provided and this is to be doцент led only four days a year. While Hearst representatives state that there are no current intentions to significantly change their permissive use allowances along the coast, provisions that call for fences and gates will certainly alter accessibility; moreover, the recommendations for the future access plan to include a monitoring program in coordination with local sheriff or highway patrol to deter and control trespassing, may signal an end to permissive use practices.
5. The easement prescribes “access parameters” under which DPR is to develop a “Public Access Plan” sometime in the future, subject to Hearst’s approval, which is to be evaluated against those access parameters. Under the terms of the easement, until the Public Access Plan is completed, approved by Hearst, and implemented, access to the entire easement area is at the sole discretion of Hearst. The lack of any specified timeline to prepare and implement this Access Plan could result in actual access to any of these lands being held in limbo indefinitely. Further, the access parameters that are to be used as the basis for approving the plan contain access restrictions that run counter to both Coastal Act and LCP policies. Finally, with Hearst as the sole reviewer of this plan, the public will have no ability to comment and public agencies charged with protecting and managing public access to coast, such as San Luis Obispo County and the Coastal Commission, will be unable to ensure that local and state policies are adequately reflected.
 6. The ranch’s permissive use policy has not been applied to those areas inland from Highway 1. The HRCP does not provide public access on the San Carpoforo Trail, nor is there any other public access on inland areas of the ranch (other than at Hearst Castle) within the coastal zone. Inland from the coastal zone, hiking or riding trail connections between the coast and public lands to the east and north, as well as any southward extension of the Coast Ridge Trail, are not provided.
 7. The agreement also provides for transfer into public ownership, that area of the designated Realignment Area acreages that fall between the current highway right of way and the realigned Highway 1 (again, subject to restrictions on use and improvements). However, while the total benefit is stated as acres, this amount may not be realized because: 1) the optimum realignments, once technical studies are in, are not likely (at all locations) to require the maximum width of the proposed Realignment Area shown on the available maps; and, 2) as with the abandoned highway right-of-way, some or all of the 110 acres would, in time, erode away as well.

Exhibit 9.1: Public Comment—Letters

8. CCT continuity is in jeopardy as the shoreline erodes away, because there is no provision that specifies that the CCT may be realigned as needed into the current highway easement, into any future abandoned highway right of way segments (even though transferred into restricted public ownership), into the future realigned Highway 1 right-of-way, or into areas in-between.
9. The summary HRCF documents laud one of the outcomes of this agreement being that 13 beaches will come into State ownership. This benefit is ill-defined, though, because the public review documents do not clearly identify or describe these beaches and it is thus difficult to analyze the full significance of this transfer. Since no mean high tide line surveys have been completed, it is unclear how much of the actual beach areas are already owned by the State. Some benefit appears to be gained for approximately four of these beaches since the only way to access them currently is across Hearst lands and thus their accessibility could be restricted if the right to pass was revoked by the corporation. The remaining nine beach areas, however, appear to already be publicly accessible or simply adjacent portions of beaches already under public ownership.
10. The proposed agreement for the Hearst Ranch, at full buildout, will result in a substantial amount of residential and commercial development that would impair the quality and availability of public access along the San Simeon Coast. Increased use of Highway One by residents and employee staff, non-priority uses under the Coastal Act, would cumulatively impact the capacity of 2-lane Highway 1 as a public access corridor. Such impacts could be offset, by the transfer of all lands west of Highway One to the State subject to a reasonable recreational use management plan (including the alignment of the CCT) prepared by DPR and the SCC, with public participation, and a program for managed public trail use connecting the CCT to public lands east of the Ranch, and provision of some affordable overnight facilities. These measures would collectively result in compliance with LCP and Coastal Act public access and recreation policies when viewed in connection with the level of new development proposed by the HRCF.

ESHA AND SCENIC RESOURCES

Environmentally Sensitive Habitat Areas

As generally described by the HRCP, the Hearst Ranch includes a multitude of highly significant sensitive ecological resources. This includes many, many threatened or endangered species, and a variety of endemic and rare habitats. The Natural Diversity Database confirms that there are many significant sensitive species located on the Ranch. The certified LCP combining designation maps show where some of these resources were identified when the LCP was written. Under the LCP, these mapped resources are considered ESHA. Many of the resources generally described in the HRCP would no doubt qualify as ESHA also, particularly those habitats that are rare or especially valuable (unique) and areas where endangered, threatened, or other sensitive species are located (e.g. CNPS 1B species). Coastal terrace prairie, for example, of which 200 acres are generally described as being on the Ranch by the draft HRCP documents, is generally considered to be ESHA by the Coastal Commission. There is also a general presumption that CNPS List 1B species are indicators of ESHA.

Although protection of ecological values is one of the purposes of the HRCP, the standards for protection fall below those required by the LCP and the Coastal Act. First, the resources are yet to be specifically identified, and when they are identified in the Baseline study, this inventory will not be available for public review. Thus, it will be difficult to determine whether ESHA on the Ranch will be adequately protected by the HRCP, except at that time when specific development proposals would be evaluated for consistency with the Coastal Act and/or LCP. For example, the LCP amendment required for the residential development clusters would need to be consistent with Coastal Act section 30240. It is unclear at this time whether the proposed residential areas are located in areas that would be considered ESHA. A preliminary review of the LCP shows that the clusters do overlap considerably with mapped sensitive habitat designations.

Second, the standards of protection in the HRCP are not as strong as the LCP or Coastal Act. The HRCP states that there should be no “impairment of conservation values”. For example, per Exhibit H of the Eastside Conservation Agreement, the residential development contemplated must not “impair” sensitive habitat or oak woodland. However, the LCP and the Coastal Act require that sensitive habitat be avoided, and residential development would not be allowed within ESHA. Fragmentation of habitats is another concern. Although the HRCP generally describes a concern to avoid fragmentation by clustering residential development, the size and location of the proposed residential clusters raise serious questions as to whether this could be accomplished. Preliminary analysis shows that the residential cluster areas range in size from approximately 300 acres to 925 acres.⁴³ It is unclear in what sense this development

⁴³ Area 1- Garcia: Approximately 300 acres; Area 2- Del Corral: Approximately 600 acres; Area 3- Laguna: Approximately 800 acres; Area 4- Marmolejo: Approximately 925 acres; Area 5- Pico: Approximately 775 acres.

Exhibit 9.1: Public Comment—Letters

might be considered to be “clustered” so as to avoid and/or minimize fragmentation of habitat values. In addition, the clusters are located in an ecologically rich area between the first coastal ridge and the main divide. This area is generally undisturbed, and the proposed development along with associated impacts (roads, invasive species, lights, pets, ranchette uses, other recreational uses, runoff, etc.) would likely bring significant disturbance to the biological integrity of this area. As currently proposed, the residential homesites could result in over 500 acres of disturbance in or adjacent to sensitive habitats. Similarly, it is unclear what the impacts of potentially intensified agriculture would have on sensitive habitats. If fully developed, agricultural activities would likely convert/displace thousands of acres of grassland habitat that support raptors, ground nesting birds, small mammals, deer, coyote and bobcat.

Other specific standards of the HRCF are not as strong as the Coastal Act/LCP requirements, or are too general to be conclusive as to the value of the HRCF for protection of sensitive habitat. For example, the conservation “prescriptions” for on-going cattle operations only require a “balance” between the agricultural activities and such conservation values as protection of water quality and riparian habitat. It is unclear whether such a balance would include restricting cattle movements in riparian and wetland habitats, or grazing in other sensitive terrestrial habitat areas. The interim management criteria do not address such concerns and the management plan that is ultimately contemplated by the HRCF will be confidential and not subject to public review. The HRCF also allows for the removal of trees to accommodate development contemplated by the HRCF. This could include forested areas that would be considered ESHA under the Coastal Act and the LCP, such as oak savannah.

The HRCF also includes a definition of wetlands that mirrors the 1987 ACOE Wetlands Delineation Manual that is not as strong as the Coastal Act and the LCP.⁴⁴ In contrast, The CZLUO (Section 23.11.030) mimics the Coastal Act (Section 30121) definition (“lands that may be covered periodically or permanently by shallow water, including saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.”) The Commission addressed wetland definition issues in its Periodic Review, including recommending incorporation of specific standards for wetlands delineations using Commission regulations as guidance. To date, the County has adopted an internal Policies and Procedures document (No. 7.00.00) that establishes the following policy; “Require biological surveys (prepared pursuant to 23.07.170) to identify, map, and evaluate wetlands (when applicable) based on at least two criteria (the Army Corps of Engineers three-component system and the Coastal Act one-component system). ...” Thus, the HRCF does not provide as much protection of wetlands as does the LCP. In the event of a proposed LCP amendment for the residential development envelopes, the

⁴⁴ The HRCF states that: “Building sites shall be located at least 100 feet from any “Wetland Areas”, defined as areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (including swamps, marshes, bogs, vernal pools and similar areas).

Coastal Act definition of wetlands would apply. It is unclear how this might impact the development anticipated by the HRCP.

Scenic Resources

Similar to the ESHA resource evaluation, the HRCP does not provide protection of visual resources as strong as that required by the LCP and the Coastal Act. In general, the LCP and the Coastal Act would require that all new development be sited out of the public viewshed where feasible. The LCP includes specific standards that require development to be hidden by topography where feasible. Skylining is not allowed. The NCAP contains specific visual resource standards for the siting new development, including requirements to hide development from Highway One views where possible and, where parcels span the Highway, to site development on the inland side of the Highway. Certainly newly created residential development envelopes would need to be located outside of the public viewshed, which would seem very feasible on the Hearst Ranch given the large area within which to locate the proposed number of development envelopes.

The HRCP, though, only requires that topography be used to hide development within one mile of the castle and of existing Highway One. Beyond this distance, vegetative screening is contemplated. Not only is this visual protection standard weaker than the LCP, it also is only defined with respect to views from the existing Highway One alignment and Hearst Castle. Thus, it may be that proposed residential development sites would pose significant visual impacts on public views from the realigned Highway One, from the Coastal Trail, and from public beaches and longer ocean views. Given the significance of the visual resources of the landscape of the Hearst Ranch, the HRCP standards do not appear adequate for assuring consistency with the LCP and the Coastal Act.

COASTAL HAZARDS

A. Existing Conditions

Shoreline erosion, and the typical response—shoreline armoring—is a significant issue along the San Simeon Coast. The greatest impact of such erosion has been on Highway 1, which has been realigned in a number of places on the Hearst Ranch over the years. From time to time, under the provisions of the 1938 right of way easement, agreements have been reached with the Hearst Corp. to move the highway further away from the receding shoreline⁴⁵. Another, less publicized phenomenon has been the diminution of several Hearst Ranch parcels located along the eroding shoreline. As the coastal bluff erodes away, the usable acreage between the highway and the bluff edge is reduced. However,

⁴⁵ Additional details can be found in the published Coastal Commission staff reports for these realignments, most recently for CDP A-3-SLO-95-070 for realignment of a 1.7 mile Highway 1 segment south of Piedras Blancas Point.

this effect is not uniform, but instead locally extremely variable from virtually no observed loss of shoreline at San Simeon Cove to episodes of several feet per year north of Piedras Blancas Point⁴⁶.

Since certification of the SLO LCP, the Commission has focused increased attention on issues related to shoreline armoring. New information about the cumulative impacts of armoring on sand supplies and shoreline recreation was developed in previous LCP periodic reviews and by the Commission staff's Beach and Erosion Response Task Force. These insights include the understandings that armoring paradoxically often leads to *increased* erosion, by deflecting or refracting wave energy around the ends of the newly placed armor. A typical response to this "flanking" effect is to invest even more by extending the armor, in a never-ending cycle.

Another insight is that shoreline armoring leads to beach loss, in three ways: 1) the "footprint" of the revetment structure covers a certain amount of beach; 2) the "backwash" from reflected wave energy scours out the beach at the toe of the revetment and the natural retreat of the shoreline is prevented; and 3) by halting the natural wave erosion process, that is "fixing" the shoreline position, downcoast areas are deprived of the sediment supply that would have been contributed to the annual beach replenishment cycle.

Accordingly, in more recent reviews of development proposals and LCPs, the Commission increased attention on ensuring that new development sited on vacant lands avoids the need for future armoring. In the case of the Hearst Ranch shoreline, the specific preferred measure for avoiding armoring is to move Highway 1 back from the shoreline, preferably with an eye toward ensuring viable use for the long term. Therefore, an important planning objective is to insure that there will be enough space, over the long run, to realign Highway 1.

Shoreline Characteristics: The San Luis Obispo County coast is approximately 96 miles in length, roughly half of which is sandy beach and half rocky shoreline.⁴⁷ This ratio is roughly representative of the San Simeon Coast portion as well. The streams that drain the watersheds of the Hearst Ranch, as well as dramatic episodes of shoreline erosion, contribute the sediments that replenish the beach areas. The coastal watersheds of the Hearst Ranch are distinguished by having no dams to impede the transport of replenishing sediments to the shoreline. Once the sediments reach the sea, the principal mechanism of transport along this coast is the Morro Bay littoral cell.

The Hearst Ranch shoreline is an open seacoast exposed to waves generated from a combination of both local winds and distant swells. In large storms, wave heights reached

⁴⁶ Rapid erosion rate documented in Coastal Commission emergency & follow-up permit files for the Caltrans "Rocks" project series, including for example CDP 3-01-004-G, CDP 3-04-043, CDP 3-97-039 and amendments.

⁴⁷ California Department of Navigation and Ocean Development, Assessment and Atlas of Shoreline Erosion Along the California Coast, July 1977, pg. 25.

over 6 meters (20 feet).⁴⁸ When these events are associated with particularly high tides and a large amount of heavy rainfall, it further enhances beach erosion.

The lithology along the county's coast contributes to variations in shoreline and bluff erosion rates. The Hearst Ranch coast is primarily composed of sedimentary rock and unconsolidated sediment, comprising marine terraces and beach, dune, and alluvial deposits.⁴⁹ Accordingly, it is expected that the coastal terrace areas will continue to retreat until more resistant bedrock is encountered.

While all of the Hearst Ranch shoreline is experiencing shoreline erosion, albeit at locally variable rates, this coastline is only sparsely developed. Highway One is the structure most threatened from bluff erosion in this area. Existing bluff protection exists to protect the road from erosion at post mile 65.7.⁵⁰ In recent years, this stretch of Highway has again been threatened by erosion, and the Commission has issued emergency permits to Caltrans to address these concerns. Caltrans has initiated a study to identify an alternative alignment, sufficiently inland to avoid the need for rock armoring of the shoreline over the long run. Geologic, engineering and environmental considerations are all being taken into account.

B. Proposed Conservation Agreement Provisions

Highway 1 Realignment Area: Although few specific details are available, the proposed agreement anticipates the eventuality of realignment of Highway 1. Realignment Areas are identified for this purpose at four locations on the inland side of the existing Highway 1 right of way. These are: 1) along the southern shoreline of the Hearst Ranch, from the Pico Cove area northwards to Broken Bridge Creek, just south of W.R. Hearst Memorial State Beach entrance; 2) in the Oak Knoll area, south of Pt. Piedras Blancas and including the coastal terrace inland from the Vista Point 3 and Vista Point 4 elephant seal viewing areas; 3) in the "Rocks" areas, north of Pt. Piedras Blancas, extending past the Arroyo del Oso-Piedras Blancas Motel area to the deep road cut just south of Arroyo de la Cruz; and, 4) in the Arroyo de los Chinos area, between Pt. Sierra Nevada and Breaker Pt. These areas together comprise approximately 518 acres.

The existing 1938 highway easement provides for a highway right of way easement, 80 ft. in width. The proposed agreement would provide a realigned right of way, 100 ft. in width, under public ownership. However, that ownership would be subject to the restrictions of the East Side Conservation Easement. Thus, there would be limitations on the kinds of public uses, activities and improvements allowed within the overall width of the right of way. [Note: Assuming 12 ft. travel lanes and 4-ft. paved shoulders, the paved highway surface would occupy only about 32 ft. of the 100 ft. easement width.]

⁴⁸ Gornitz, V., Beaty, T., and Daniels, R., *A Coastal Hazards Data Base for the U.S. West Coast*, Oak Ridge National Laboratory, Environmental Sciences Division, Publication No. 4590, December 1997.

⁴⁹ Gornitz, Beaty, and Daniels, 1997

⁵⁰ CCC, Staff Recommendation North Coast Area Plan Update LCPA No. 1-97, January 12-16, 1998, pg. 172

Transfer of current Highway 1 alignment to public ownership: Under the existing 1938 highway easement, abandoned segments of the Highway 1 right of way revert to exclusive control by the Hearst Corp., the underlying fee simple owner. In contrast, under this agreement any such abandoned right of way segments would be conveyed to public ownership, but restricted according to the uses allowed in the proposed West Side Conservation Easement. The total area within the anticipated highway segments to be abandoned is stated as comprising approximately 110 acres to become available for CCT use. [Note: this acreage would be expected to diminish over time, as the shoreline within the old right of way retreats.]

Transfer of unused remainder of the Realignment Area: Portions of the 518 acre Realignment Area remaining on the seaward side of the realigned Highway 1 right of way (i.e., between the old right of way and the new right of way) would be transferred to public ownership, subject to the West Side Conservation Easement restrictions on public use, improvements and activities. This provision apparently will not apply to the inland side of the realigned Highway 1. [Note: Presumably, future technical studies will determine that in some places the optimum shoreline setback distance for the realignment will be *less* than the maximum width of the proposed Realignment Areas. So, not all of the acreage of the Realignment Areas shown on the maps submitted with the description of the proposed agreement will necessarily come into public ownership. And, the acreage that does will still be subject to reduction through shoreline erosion.]

C. Coastal Act Policies

Coastal Act: The Coastal Act requires that new development be sited and designed to minimize risk to life and property specifically in areas of high geologic, flood and fire hazard. Under the Coastal Act, development is required to be sited and designed to assure stability and structural integrity and neither create nor contribute significantly to erosion or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs (Section 30253). Section 30235 of the Act allows the construction of shoreline protective devices where existing development is threatened from erosion and when designed to eliminate or mitigate impacts on shoreline sand supply.

In carrying out these Coastal Act policies in permits, appeals and in certifying LCPs, the Commission has used a variety of development controls to implement these Coastal Act policies. These include such things as: ensuring adequate setbacks; limiting seawalls to protect existing *primary* structures at risk rather than ancillary structures; allowing placement of seawalls only where there is no less environmentally damaging alternative to protect the structure; ensuring that seawalls are designed to minimize impacts such as encroachment onto sandy beach areas, replenishing beach sand trapped behind walls, and restoring sand berms or dunes to provide alternative protection.

Exhibit 9.1: Public Comment—Letters

Recently, based on new information about the increase in the amount of shoreline armoring occurring in California, the Commission has implemented measures to encourage resiting of new structures outside of hazardous areas and to avoid future armoring. This approach would be applicable to the Highway 1 situation along the Hearst Ranch shoreline.

D. San Luis Obispo County Local Coastal Program (LCP) provisions:

LCP Policies: To carry out the policies of the Coastal Act regarding shoreline hazards, the certified San Luis Obispo County LCP aims to protect the natural state of beaches and bluffs by imposing strict standards on bluff top and shoreline development.

Blufftop development: LCP Coastal Hazard Policies No. 3 and No. 7 require a detailed review of bluff top development by a Registered Geologist or Certified Engineering Geologist that provides conclusions about geologic stability and recommendations on structural design. Minimum setback distances in the Land Use Ordinances for new and expanding blufftop development (CZLUO Section 23.04.118) are required to ensure the structure will be safe from erosion and wave action without the need for a shoreline protective device for 75 years. A Certified Engineering Geologist determines setback distances based on evaluation of site stability.

Seawall development: LCP Coastal Hazard Policy No. 1 provides required standards that prohibit construction of new development on the beach, with the exception of coastal dependent uses and public recreation facilities. New development is to be located and designed to minimize risk to life and property and shall be designed so that shoreline protective devices will not be needed for the life of the structure.

Furthermore, LCP Coastal Hazard Policies No. 4 and No. 5 and CZLUO Section 23.05.090 provide specific requirements for seawalls, cliff retaining walls, revetments, breakwaters, groins and other shoreline protective devices. The LCP requires that they be designed by a registered civil engineer and limited to protecting existing development, public recreational areas, coastal dependent industry, and roads that provide access to public beaches and recreation areas where no alternative routes are feasible. Permits for shoreline protective devices may only be approved if: found to eliminate or mitigate impact to local sand supply; not preclude public access; be visually compatible with adjacent structures and natural features; minimize erosion impacts on adjacent properties; not adversely affect fish and wildlife; and if non-structural methods of protection have been proven to be impracticable or infeasible. LCP Policy No. 4 also provides that areas seaward of permitted shoreline protective devices shall be dedicated for public access.

Area Plan standards: In the North Coast Area Plan, the Bluff Erosion GSA designation is applied in much of the area. This designation requires that “development is to be located so it can withstand 75 years of bluff erosion without the need for shoreline protective structures that would substantially alter natural landforms, affect public access or impact

Exhibit 9.1: Public Comment—Letters

sand movement along the beach.”⁵¹ Additional standards for coastal setbacks are applied to lands designated Recreation. These standards generally require a 50-ft setback that can be reduced to 25 ft if recommended by a geology report.⁵² In San Simeon Acres, the bluff setback is stated as a minimum of 25 feet.⁵³

E. Preliminary Conclusions & Recommendations

- It is important that the HRCPP reflect the newer information and mitigation measures designed to avoid and minimize the impacts of armoring along the coastline;
- The inland boundary of the proposed Realignment Area must be sufficient to avoid the need for any future armoring of the San Simeon Coast, consistent with Coastal Act and LCP policies as interpreted in light of current scientific knowledge;
- Failure to locate the highway sufficiently inland from the eroding bluff will likely result in the eventual need for lengthy and expensive rock revetments. Downcoast areas would be deprived of eroded bluff sediments that would otherwise contribute to the beach replenishment process, and that would normally buffer the effects of wave erosion on coastal bluffs;
- The proposed inland boundary of the Realignment Area reportedly is based solely on rough estimates, not on completed analytical studies; substantial additional

⁵¹ North Coast Area Plan Revised February 1994, pg.47.

⁵² North Coast Area Plan Revised February 1994 , pg. 8-11

⁵³ North Coast Area Plan Revised February 1994 pg.8-50.

Exhibit 9.1: Public Comment—Letters

data, including time series air photo analysis and subsurface testing, will be needed to determine erosion rates and to predict susceptibility of coastal terrace landforms to shoreline retreat;

- More importantly, any realignment of the highway must take into account the need to keep the meandering roadway design that minimizes landform alternation and respects the significant natural and cultural resources of the area--the very reasons that this portion of Highway 1 has been designated a National Scenic Byway;
- Where recent shoreline erosion has had the most severe impact on Highway 1, north of Piedras Blancas Point in the “Rocks” area, realignment of the highway further inland will be essential in the near future;
- Several potential realignment centerlines have been identified by Caltrans, the farthest being up to approximately 600 yards inland from the existing alignment (near the inland edge of the Todd inholding property);
- The proposed maximum width of the Realignment Area, scaled from the submitted map at approximately 300 yards, is not sufficient to encompass the east-of-Todd alternatives;
- The question of which alignment alternative is the best in terms of engineering and environmental considerations is currently under study by Caltrans;
- Omission of the more easterly alignment alternatives from the proposed Hearst Ranch agreement Realignment Area would tend to corrupt or prejudice this evaluation process;
- While Caltrans may still be able to exercise eminent domain to implement a hypothetical best alternative inland from the proposed Realignment Area, such alternative is less likely to be selected because the cost of compensation could make the best alternative *infeasible*--and therefore the public would be stuck with a less-than-preferred alternative in terms of environmental impacts, or engineering considerations, or both; in any event, detailed analysis is needed to confirm whether or not the authority to exercise eminent domain would be curtailed by participation in the proposed agreement;
- The existing 1938 highway right of way easement anticipates the potential need for realignments, and authorizes the president of the Hearst Corporation to enter into agreements with the State for this purpose. This framework has proven to be an effective process for allowing for the inland retreat of the existing highway over time. Would the 1938 easement be revoked or invalidated by the State’s acceptance of the proposed Realignment Area approach? If the answer is “yes” then we must be concerned that the proposed Hearst Ranch agreement would limit Caltrans’ ability to appropriately respond to episodes of shoreline erosion, which

Exhibit 9.1: Public Comment—Letters

would in turn increase the likelihood that portions of the San Simeon Coast will have to eventually be buried in rock revetments. This risk is greatest in the “Rocks” area north of Pt. Piedras Blancas.

Recommendations: a) the inland boundary of the proposed Realignment Area should be revised to provide for all reasonable alternative realignments of the highway, including the east-of-Todd alternative; b) a clarification should be added to make it abundantly clear that the State’s participation in the agreement in no way whatsoever waives its authority to exercise eminent domain, in event it becomes necessary to protect the public interest; and, c) as a fallback measure, the 1938 highway right of way easement should be left intact, to run concurrently on all applicable Hearst Ranch lands, including the lands of any successors in interest, without regard to the proposed Realignment Area.

ENFORCEMENT

Resources Protected by the Easement

To determine the effectiveness of any enforcement program it is essential to know what resource is being protected in order to know if the protection given that resource is adequate or if there is a violation of the terms of the easement.

The Easement agreement states that the "Conservation Values" of the ranch will be protected from "substantial impairment for more than a transient period of time". These values are summarized in the document as agricultural, habitat and scenic resources. A "Baseline Conditions Report" to be prepared before the effective date of the agreement will more specifically identify and locate the protected "Conservation values" on the ranch. These will be the resources protected, in perpetuity, under the easement. This report will not be available to the general public but will be reviewed and approved by the Wildlife Conservation Board, a public agency.

It thus appears that there will be a specific document that will identify the type and location of the scenic, habitat and agricultural resources to be protected as of a date certain. This document will, however, be confidential and not subject to public and resource agency review (other than the Wildlife Conservation Board). Accordingly, it is unknown if all or even what habitat, scenic and agricultural resources have or will be identified and mapped. A baseline study tied to one point in time, as is this study, also does not provide any flexibility for the future. If, for example, a new animal or plant is placed on the endangered list but is not included in the baseline study, it will not be protected. Likewise, if an identified habitat grows larger, the portion not mapped will not be protected.

In conclusion, the resources to be protected will be specifically identified but locked into a specific window in time (2004) that, as years pass, will provide a less and less relevant

Exhibit 9.1: Public Comment—Letters

picture of the true extent and condition of those resources. There is no provision for updating this survey, or for any public review. In effect, the public, which will have expended considerable public funds to protect certain natural resources, will not know what is being protected, where they are on the ranch, and whether they are being protected.

Management of the Easement

The management of the easement will be governed by the terms of a Management Plan prepared by Hearst and submitted to the easement holder (California Rangeland Trust) for approval. That Plan has not yet been prepared and need not be prepared until at least a year after the agreement is consummated. Although the Wildlife Conservation Board may review and provide comments on the Management Plan, it does not have the authority to disapprove or require changes to the Management Plan. The easement holder must approve the Management Plan unless it determines that the Plan is inconsistent with the easement.

Actions constituting a violation of the terms of the easement

According to the terms of the easement, substantial impairment of conservation values for more than a transient period of time would not be allowed and would be considered a violation of the easement if this impairment was to occur. The language defining the prohibited activity, "substantial impairment" over a "transient period of time" is subjective and will be difficult to pin down should disagreements and litigation arise. This vague wording makes effective enforcement of the conservation values the public is paying to protect problematic at best and illusory at worst, except in the most egregious cases.

Enforcement Provisions:

Monitoring: The Easement provides for an annual monitoring program to ensure that conservation values identified in the baseline study are being adequately protected. A maximum of four Monitors, approved and accompanied by the landowner may, with two

Exhibit 9.1: Public Comment—Letters

weeks notice, spend a maximum of four days per year on the 80,000 acre ranch inspecting the land to ensure consistency with the terms of the easement. If a "bona fide" violation is discovered, an additional four days of inspection is authorized. (Section 16, page 22 Easement Agreement) Monitoring reports are confidential but summaries may be released for public distribution.

Audit: The Grant of the Easement from the Wildlife Conservation Board to the American Land Conservancy and successor Grantee, The California Rangeland Trust, provides for an audit of the conservation project every five years. The auditor will be selected by consensus by the Audit Committee which is composed of a California Rangeland Trust Director, the Executive Director of the Wildlife Conservation Board, a Certified Range Manager and the Landowner. The Auditors duties are to inspect the ranch, review the terms of the easement, review the annual monitoring reports and prepare a report discussing compliance with the terms of the easement and recommendations for remedial action as needed. This report is confidential.

Dispute Resolution: In the event of an alleged default on the terms of the easement, the non-defaulting party must serve the defaulting party with a notice of default. The parties (Landowner and Easement Holder) are then obliged to meet and discuss the alleged default and, if they cannot agree on a solution, the non-defaulting party must send a written notice to the defaulting party with specific recommendations for correcting the problem. If the problem is not addressed within 30 days of receipt of this written notice, the non-defaulting party may bring suit against the defaulting party. An abbreviated process is also provided if the violation would cause irreparable harm to conservation values. The easement does not allow for the enforcement of the terms of the easement by any party other than the Landowner and the Easement Holder (Hearst Corp. and California Rangeland Trust). The prevailing party in any litigation is entitled to attorney's fees.

The Grant Agreement between the Wildlife Conservation Board and the American Land Conservancy and successor Grantee, California Rangeland Trust, allows the Wildlife Conservation Board limited abilities to address a default by the *Grantee* (ALC or CRT). The WCB itself, however, does not have any direct enforcement authority against the *Grantor* (landowner) under the terms of either the easement or the grant agreement. If the Easement Holder breaches their agreement with the Wildlife Conservation Board, e.g., by failing to fulfill its responsibilities under the easement and the grant agreement to ensure that the landowner complies with the requirements of the easement, then the Board can require the easement to be reassigned to another entity. The landowner is entitled to designate the new easement holder according to criteria specified in the easement. WCB must approve the new easement holder if the new easement holder meets the criteria identified in the easement. If neither the landowner nor a court of competent jurisdiction identifies an eligible non-profit organization to hold the easement the WCB will assume the easement.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



September 9, 2004

State Coastal Conservancy
Attn: Janet Diehl
1330 Broadway # 1100
Oakland, California 94612

Re: September 15 Meeting Agenda Item 20, Hearst Ranch Conservation Plan

Chairman Morabito and Honorable Board Members:

I write to urge you **to postpone action** on the Hearst Ranch Conservation Plan (HRCP) until the legal documents are modified to eliminate unwarranted limitations on public access and recreation opportunities on the lands west of Highway One and the conservation easement is modified to make it enforceable by the State.

The California Constitution prohibits any individual, partnership, or corporation from excluding the public's right of access to the sea whenever it is required for any public purpose (Article X, Section 4). The California legislature has acted on and clearly interpreted this Constitutional requirement in the California Coastal Act and the State Coastal Conservancy law. Section 30001.5 of the Coastal Act declares the basic goal for California to "[m]aximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principals and constitutionally protected rights of private property owners". Coastal Act Section 30210 specifically interprets the Constitutional obligation to provide public access to the sea:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, **maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people** consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse [emphasis added].*

Consistent with this legislative mandate, Section 31400 of the State Coastal Conservancy legislation specifies that "it is the policy of the state that **the right of the public to access and enjoyment of the coastal resources should be effectively guaranteed.**" The current HRCP, which would operate *in perpetuity*, is inconsistent with the letter and spirit of state law relative to public access, and the Conservancy should not approve grant funds until public access provisions in the plan are improved consistent with law.

Indeed, the current provisions fall well short of *guaranteeing* public access and recreation and may, in fact, curtail existing public access, even on lands that are to go to the Department of Parks and Recreation (DPR) in fee title. For example, the HRCP will restrict the hours of use of all west side lands, whether in fee or easement to the State, to less than daylight hours (30

minutes after sunrise to 30 minutes before sunset). Nowhere in the State are such limited public use hours imposed on public coastal lands. Similarly, the “Access Parameters” and associated documents of the HRCF would place further restrictions along the shoreline, including fencing and gating existing turnouts along Highway One in the Ragged Point and Pico Cove areas and allowing no more than 20 people to be shuttled in on one Sunday every three months for docent-led tours only. These are popular recreation spots that thousands of visitors enjoy throughout the year, either by virtue of prescriptive rights or Hearst’s permission under their Section 813 filings, that should not be restricted as proposed. In fact, there are currently approximately two dozen pull outs used for scenic viewing and parking west of Highway One and the HRCF fails to protect these use areas or provide for equally equivalent use areas.

An even more troubling result of the HRCF is that approximately five miles of the coast will effectively become private beach areas (Ragged Point, San Simeon Point, and Pico Cove). *This would be the first time that the State of California will have purposely carved out such private beach areas.* More generally, if one considers the full Hearst Ranch acreage on the west side of Highway One as described in the HRCF transaction overviews, only 61% of the property will become public if the Junge Ranch is included in the transaction; only 54% if the Junge Ranch is not included. The State should look on this HRCF as a rare opportunity to obtain most of the Westside lands for the public, except perhaps, for a limited commercial/visitor-serving node at Old San Simeon Village. While Commission staff continues to believe that this should be one of the primary outcomes of the HRCF, we understand that the proposals may move ahead under the current framework of final ownership. Within this context, we offer below a general summary of the main problems with the public access and enforcement provisions of the HRCF. Specific proposed language changes to address these problems will be forwarded to you within the week.

- Because the easement will completely prohibit public access facilities (and their necessary connection to Highway One) from being located in the viewshed, DPR is prevented from providing essential access and recreation facilities, such as restrooms, parking areas, and access facilities for disabled persons and others, in locations that are essential to support the California Coastal Trail (CCT) and related recreational uses. This prohibition applies even to the lands that DPR will receive in fee title. Additionally, we have received indications from Caltrans that even simple public access and interpretative signs may be disallowed as well. Given the distances from off site parking and restroom facilities involved, this provision will render the CCT unusable by a significant portion of the population. Other basic amenities such as drinking fountains, picnic tables, footbridges, stairs, wildlife observation blinds and campsites will also be prevented. Further, the full retention of water rights by Hearst on the lands going to DPR also could make it impossible to provide basic access amenities such as a restroom or drinking fountain. **The legal documents should be changed to allow appropriately designed and screened facilities in the Highway One viewshed if it is infeasible to site them out of the viewshed, and to provide water rights to DPR as part of the in-fee land transfer.** (See, for example, Section 5c and 12 of the Caltrans Scenic Conservation Easement.)
- The alignment of the CCT in the Hearst-retained easement areas (over 600 acres and approximately 5 miles long) is unnecessarily wedged between Highway One and the fence line. Although representatives of Hearst and ALC have indicated to us that the CCT would not be similarly restricted on the remaining 13 miles of DPR lands, this should be

clearly stated given the ambiguity in the current documents available to the public. Even still, certainly all of the connections from the public lands to the Hearst-retained properties will be forced to return to the highway right of way. Such alignments, next to the highway and in close proximity to motor traffic, are contrary to the specific alignment principals our agencies have agreed upon to place this statewide trail in a meander as close to the shoreline as feasible (Completing the California Coastal Trail, State Coastal Conservancy, Jan. 2003). Moreover, as noted above, hours of use would be severely limited and commercial recreation and fires, even on DPR lands, would be prohibited. These provisions will prevent visitors from enjoying both sunrise and sunsets from public lands, ban small commercial recreational entrepreneurs, such as kayak, wind surfing, fishing, and diving instructors and rental operators, and prohibit fires at potential DPR campsites. (See, for example, Section 3(a)(ii) of the Caltrans easement and the Access Parameters for the State Parks Public Access Easement.) Other related prohibitions, such as inappropriate restrictions on future road development that would undermine appropriate public access support facilities, precluding any additional vista point development or reasonable public access to BLM's Piedras Blancas lighthouse restoration project (See Sec. 10 of the Caltrans easement.) **Hours of use and the location and types of permitted activities (including the siting of the CCT) should be addressed in a management plan prepared by DPR through a normal public planning process, not in the legal documents of the HRCP.**

- While DPR is charged with preparing an access management plan for the lands west of Highway One, the HRCP prescribes highly restrictive "Access Parameters" and "recommendations" for the plan and assigns Hearst as the sole approving entity of the plan. (See Section 2 of the State Parks Public Access Easement.) These restrictions will not allow DPR to create a plan that meets public needs and interests, much less Coastal Act requirements for protecting and improving coastal access, and wrongly places the approval of a public plan in private hands. **A comprehensive access and recreation management plan for all lands west of Highway One that provides for optimum alignment of the Coastal Trail appropriate support facilities, balancing of compatible uses toward public benefit, and suitable low-cost visitor amenities should be developed by DPR in consultation with Hearst, State Parks, the State Coastal Conservancy, the Coastal Commission, SLO County, and other interested agencies and members of the public.**
- The HRCP fails to provide any inland public access, including the protection of historic access trails or access to fishing rights that the public holds on some of Hearst's Certificate of Compliance parcels in the northern portion of the Ranch. At present, the only opportunity for the public to access the inland portion of the Hearst Ranch is via the State Park facilities associated with Hearst San Simeon State Historical Monument, including the visitor center, the connecting shuttle corridor, and Hearst Castle itself. Historically, the San Carpoforo Trail--said to be the Portola Expedition's route--provided both an east-west and north-south connection, between San Simeon in San Luis Obispo County, and Jolon and King City in Monterey County. The trail extends from the coast, along San Carpoforo Creek through what is now the Hearst Ranch's northernmost valley, winding its way eventually to San Antonio Mission (within Fort Hunter Liggett, once also part of the Hearst Ranch). The adjacent Forest Service "trail" to the north is extremely rugged and difficult to traverse. **The HRCP documents should be revised to**

provide a public trail link between the coast and public lands to the east of the Ranch in Fort Hunter Liggett or Los Padres National Forest.

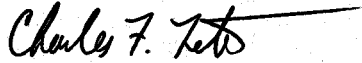
- With regard to enforcement, we also ask that you not approve public funding for a plan whose public benefits are not effectively protected by meaningful state level enforcement. As written, the HRCF offers illusory monitoring and enforcement provisions because critical information will be kept confidential and key decisions relative to ensuring effective implementation of conservation protections will not be subject to public scrutiny or meaningful state level oversight and enforcement. Many of the HRCF documents inexplicably provide for the transfer of these public easements, purchased with public funds, to “qualified organizations,” and both the Caltrans and DPR easements place unwarranted restrictions on the future transfer of the easement to other governmental entities. (See sec. 17 of the Caltrans easement and section 7 of the State Parks Public Access Easement.) Conservancy funding is being sought and justified predicated on public access benefits and the preservation of biological diversity and natural resource protections. None of these fundamental objectives are assured by the pending proposal. **Each of the HRCF documents must ensure that effective public agency oversight and enforcement of conservation values, including access and recreation, will continue throughout the life of the easements.**
- The HRCF conveys certain property interests and will generate expectations for certain intensities and locations of development. Specific language should be added to make clear that nothing in the easements shall be construed as preventing Hearst as the Grantor from meeting future regulatory requirements that may be imposed on these properties, such as required public access mitigations for future commercial development. Further, the various documents associated with the HRCF should be revised to make explicit that the HRCF is not an alternative to normal regulatory review of the development and land uses set forth in the HRCF, nor does it create any entitlements to regulatory approval of the development and land uses anticipated in the HRCF.

While this letter, and our forthcoming proposed language changes, focus on public access and enforceability, we have other concerns with the HRCF. For your information, we understand that Conservancy staff included our previous comments to the Wildlife Conservation Board and our preliminary staff analysis of the HRCF in their staff packet to you on this item and we encourage you to read that material. Also for your information we are attaching our letter to Caltrans relative to adverse impacts on public access from the proposed easement they are buying from Hearst for \$23 million.

I want to stress that we are not opposed to a genuine, meaningful land transaction **if** the transaction is clearly designed to guarantee long-term, effective protection of the public values and interests we are told is the primary purpose of the HRCF. The rub is, the proposal before you does **not** accomplish this goal and would, if implemented, do a great disservice to the public. Moreover, the HRCF documents made available to date are incomplete and continue to undergo significant revision. Modified and *complete* draft copies of the legal documents should be released to the public for a reasonable period to allow adequate review prior to the Conservancy Board’s approval of any funding for the HRCF. **We think you should postpone this matter and send staff back to the bargaining table to get the public a good deal.**

In closing, we hope these comments are helpful in your deliberations over the expenditure of public funds for a conservation easement on the Hearst Ranch. The decisions you are being asked to make, are far-reaching and as important to current and future generations as any I can imagine that seek to protect a precious national natural treasure. Your decision will serve as precedent for other environmental conservation transactions. As proposed, the HRCP is, in our view, an ill-advised precedent you should not want to establish as your legacy to conservation practices in this State or Nation. The public and California coast deserve a better bargain than you are now being asked to approve. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Charles F. Teto". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

for

Peter Douglas
Executive Director

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



August 30, 2004

R. Gregg Albright
District Director, District 5
State of California, Department of Transportation
50 Higuera Street
San Luis Obispo, CA 93401-5415

Dear Mr. Albright,

I am writing to you regarding the Scenic Conservation Easement component of the Hearst Ranch Conservation Plan (HRCP) as presented on the Resources Agency website (dated July 12, 2004), that is under consideration by your agency. We are very concerned that as currently drafted, the CalTrans easement will have significant adverse impacts on the State's ability to ensure the best possible public access opportunities and amenities on lands west of Highway One, as called for by the Coastal Act. We understand CalTrans may be considering finalizing this easement prior to the State Coastal Conservancy's hearing on the HRCP. We strongly urge you NOT to finalize this easement in its current form. In addition, the public should have an opportunity to voice its concerns to the Conservancy regarding the HRCP. In our view, there are several changes that ought to be made to the Easement before being agreed to by Caltrans.

The State has a golden opportunity to achieve several major long-term public benefits through the HRCP. Unfortunately, the CalTrans easement that is currently pending would have significant negative impacts on public access opportunities and amenities west of Highway 1. We offer the following comments in order to ensure meaningful public access benefits on coastal lands that will be transferred to State Parks as part of the HRCP. We consider the recommended changes extremely important, especially since the restrictions in the easement on public recreational use of these lands will run with the land *in perpetuity*.

As currently drafted, the Easement will prevent the Department of Parks and Recreation (DPR) from providing important access and recreation facilities for the public. In particular, section 5c (Easement, p. 5) requires that except for trails and signage, public access facilities, including but not limited to restrooms and parking areas, be located outside of the Highway One viewshed. This restriction effectively undermines the implementation of the California Coastal Trail by disallowing necessary support facilities (particularly in light of the distances involved); limits the public's ability to access more remote areas of this stretch of coast by blocking parking facilities; may prevent the construction of access facilities for disabled persons; and will block other important amenities such as restrooms, picnic tables, and campsites.

We support the policy goal of protecting scenic resources of the North Coast of San Luis Obispo County. However, we do not believe that section 5c restrictions strike a good balance between

scenic resource protection and public access, especially considering the fact most of the lands in question will be transferred into public ownership. Obviously, every effort should be made to locate public access facilities that could have visual impacts outside the viewshed. However, where this is not feasible, such facilities, sensitively sited and designed, should be allowed in order to support meaningful public use of these lands. We note that the San Luis Obispo County Local Coastal Program already provides appropriate and adequate development standards to protect the viewshed while allowing for public access and recreation amenities.

Section 3(a)(ii) of the easement would lock in place inappropriate limitations on the hours of public use (½ hour after sunrise and ½ hour before sunset) and types of prohibited recreational activities (no commercial recreation or fires). Hours of use and location and types of permitted activities should be addressed in a management plan prepared by DPR through a normal public planning process that allows input by Hearst, the public and other public agencies (e.g., the County, Coastal Conservancy, Coastal Commission, Department of Fish and Game). The pending easement CalTrans would have to enforce will prevent visitors from enjoying sunsets from public lands, ban small commercial recreational entrepreneurs, such as kayak, wind surfing, etc. trainers and rental operators, and prohibit fires at potential DPR campsites.

Again, while we support reasonable management of public access and recreational uses on state lands, we do think it is NOT appropriate to lock in arbitrary public use restrictions through a proposed scenic easement before the state agency that is going to manage the lands assumes that responsibility. We also think that some of the proposed restrictions in the easement do not have a reasonable, direct connection to the protection of important scenic resources. DPR should be allowed to develop public access and recreational use management plans through its normal public review process, unencumbered by any proposed scenic easement. We note again, the SLO County LCP provides development standards to allow for public access, while simultaneously protecting scenic resources, sensitive habitats, and other coastal resources. In addition, given the extraordinary resources of this section of the California coast that were the basis of the recent designation of Highway One as a National Scenic Byway, we would envision an opportunity to work with you, other agencies, and the public to prepare more detailed, context-sensitive design guidelines similar to the work that we recently completed, working with you, for Monterey County's Big Sur Coast.

Other significant issues raised by the current draft easement that require further careful consideration, interagency discussion, and public review include potential subordination of future public access to the retained right by Hearst for continued cattle grazing on public lands (sec. 3A)(i)); lack of specificity concerning what type of "passive" recreation is allowed (e.g. does this mean no hiking, kayaking, wind-surfing, fishing, scuba-diving, or even access onto the lands, as opposed to passive viewing of the lands?) (secs. 1 and 3(a)(ii)(B)); lack of clarity by what is meant relative to retained extinguished development rights that could prevent or constrain public access and recreation development (sec. 7); inappropriate restrictions on future road development that would undermine necessary and appropriate public access (sec. 10); inability to provide basic access and recreational use amenities such as restrooms and drinking

water for visitors on public lands due to retained water rights (sec. 12); and unwarranted prohibitions on the future transfer of the easement to other governmental entities (sec. 17).

CalTrans should address all these concerns through modifications to the pending scenic easement. It is possible to strike a sound balance between scenic resource protection and maximizing public access and recreational use opportunities, both central values of the Coastal Act. Unfortunately, the proposed easement does not achieve this balance. As we noted earlier, we were able to accommodate public access facilities while minimizing impacts to significant visual resources along the Big Sur coast where Highway 1 is also a designated National Scenic Byway. In Big Sur, where facilities are not able to be located out of the viewshed, they can be designed and screened in such a way as to not do significant harm to the viewshed. We are not aware of any restrictions under the Scenic Byway program (or the TEA-21 program for that matter) that would prevent a reasonable balance between scenic resource protection and public recreational use. Indeed, projects eligible for funding assistance under the Scenic Byways Program in accordance with Section 1219 of the TEA program include the provision of public access and recreation facilities, including the construction of facilities for the use of pedestrians and bicyclists, rest areas, turnouts, overlooks, and interpretive facilities.

In conclusion, we respectfully request that CalTrans vigorously pursue a better balance between scenic resource protection and public access and recreational uses than what is currently embodied in the proposed scenic easement. We reiterate that we are not aware of any specific restrictions in the TEA-21 authorities, or CalTrans authorizing mandates, that prevent such a reasonable balance and, in fact, would submit that conformance to Coastal Act policies would demand it.

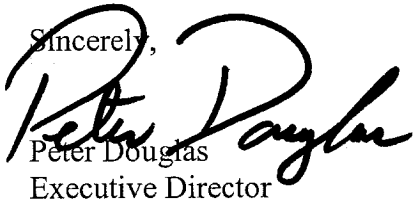
We also reiterate our request that, at the very least, CalTrans delay any final decisions on the scenic easement until the Conservancy has provided the forum for a public deliberation of these issues, and until the public has had an opportunity to see the final proposed easement language, and associated benefits, that would be agreed to and financed by the public. The currently available draft is incomplete, and includes ambiguous language suggesting that even more restrictions on the Public Ownership Conservation Area, including on public access facilities, will be forthcoming (top of p.6). We assume you would want the benefit of other agencies' reviews and public comment before finalizing a document with such important long-term consequences.

Thank you for your consideration of these comments. I have attached a staff analysis of the HRCF previously provided to the Wildlife Conservation Board that further elaborates our concerns for the overall HRCF. We anticipate forwarding more detailed comments, particularly with respect to public access and recreational use issues, to the Coastal Conservancy in the next week. In addition, regarding the closely related matter of Caltrans' discussions with the Hearst Corporation to allow for realignment of Highway One, we welcome further discussions with you, particularly as to how this will affect your ability to meet the coastal development permit requirements at Piedras Blancas (CDP 3-97-039 as amended). We strongly urge Caltrans not to

enter into any arrangements to change or extinguish your existing 1938 road easement until we have had the opportunity to further discuss your coastal permit obligations.

Please feel free to call me or Charles Lester if you have questions.

Sincerely,



Peter Douglas
Executive Director

Cc: Sam Schuchat, Executive Officer, State Coastal Conservancy
Ruth Coleman, Director, California Department of Parks and Recreation
Mike Chrisman, Secretary, California Resources Agency
Vic Holanda, Planning Director, San Luis Obispo County
Jeff Stump, American Land Conservancy
Mike Reilly, Chair, California Coastal Commission

Encl:

Exhibit 9.1: Public Comment—Letters

San Luis Obispo Council of Governments



Ronald L. DeCarli - Executive Director

Regional Transportation Planning Agency
Metropolitan Planning Organization
Census Data Affiliate
Service Authority for Freeways and Expressways

Arroyo Grande
Atascadero
Grover Beach
Morro Bay
Paso Robles
Pismo Beach
San Luis Obispo
San Luis Obispo County

August 6, 2004

J. Dugg

Al Wright, Executive Director
Wildlife Conservation Board
1807 13th Street, Suite 103,
Sacramento, CA 95814
Fax (916) 323-0280

Subject: Support for Wildlife Conservation Board (WCB) Grant for Hearst Ranch

Dear Mr. Wright:

As President of the San Luis Obispo Council of Governments (SLOCOG) I want to express our strong support for the WCB grant to conserve the Hearst Ranch in perpetuity. The SLOCOG Board has joined countless public and private organizations in support of this historic conservation opportunity.

We strongly support this proposal as it provides an historic opportunity to preserve 18 miles of undeveloped coastline and 129 square miles of scenic coastal hills and terraces. It also provides a greater level and quality of public access to the coast and allows the future realignment of Highway 1 while addressing ongoing erosion problems and retains the historic agricultural operations on this 82,000-acre working ranch that have been ongoing for more than 130 years.

We want to commend you, your staff and all the agencies involved on the excellent work done to reach an agreement between the American Land Conservancy, California Rangeland Trust and the Hearst Corporation. These organizations have worked diligently with the State of California to ensure wildlife and habitat on the Ranch are protected while balancing the desires of the community and respecting the rights of the property owner.

The citizens of California, visitors to the area and future generations will be ever grateful for what you have accomplished here. We urge the WCB to please approve the grant for this project.

Sincerely,

Frank Mecham, President
San Luis Obispo Council of Governments

cc: Governor Arnold Schwarzenegger
Senator Bruce McPherson,
Assemblyman Abel Maldonado,
California Coastal Conservancy
California Resources Agency

RECEIVED
AUG 10 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters



North Coast Advisory Council
P. O. Box 533
Cambria, CA 93428

September 1, 2004

Sam Schuchat, Executive Officer
California State Coastal Conservancy
Eleventh Floor
1330 Broadway
Oakland, CA 94612

RE: Hearst Ranch Conservation

Dear Mr. Schuchat;

The North Coast Advisory Council to Supervisor Shirley Bianchi of San Luis Obispo County voted unanimously to support the acquisition of the Hearst Ranch for conservation and coastal access for the public. We strongly urge the California State Coastal Conservancy to allocate the funds needed to protect this beautiful ranch for all our future generations.

We believe the process for acquiring this ranch has been well worked through and the best of all resources will be protected while maintaining the original plan for development by the historic architect Julia Morgan and the extraordinary foresight of William Randolph Hearst.

An added incentive for San Luis Obispo County as well as the State of California is gained from the Hearst Ranch remaining on the tax rolls.

We were moved into action to support this project due to the negative agenda of some groups. We believe this to be short sighted and not in the public interest. We urge you to look past the few objections and to the larger public good.

Sincerely,

Carol Broadhurst
Corresponding Secretary

Cc: Shirley Bianchi, Supervisor
Anne Wyatt, Chair, NCAC

RECEIVED
SEP 07 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

Response to the Santa Lucia Chapter's Analysis of the Hearst Ranch Conservation Project

American Land Conservancy has reviewed the statements made in the staff analysis presented to the Sierra Club's California/Nevada Regional Conservation Committee in support of the proposed resolution concerning the Hearst Ranch and offers the following information in response:

Statement: Hearst Ranch - San Luis Obispo County (approx. 3 mi. north of Cambria) 1,100 acres of coastal terrace (less than 2% of the total ranch), approx. 18 mi. of coastline in fee-title, plus an agricultural easement covering some additional 82,000 acres - not adjacent to significant development \$95 million (\$80m cash and \$15m tax credits)
Approximate cost per acre - \$86,300

Fact: A predominate portion of the appraised value of the conservation transaction is the conservation easement restricting development on over 80,000 acres on the east side of the highway. The per acre cost of the proposed conservation transaction, including both ocean front fee acquisition and the conservation easement is approximately \$1220. American Land Conservancy's independent appraisals are significantly more than this amount and are appreciating at a rate of between 12 and 18 percent per year. Note: This will be a conservation easement, not an agricultural easement.

Statement: Under San Luis Obispo County's General Plan, restrictions on housing development in land zoned for agriculture require that such development be clustered to minimize its footprint and impact to agriculture and the remaining acreage be protected from future development by an Ag easement. If the County approved the 27 unrestricted dwellings (essentially a new sub-division), it could easily require the retirement of all the remaining lots, including the 241 COC parcels, as a condition of development.

Fact: The County's certified LCP for the coastal zone currently does not allow cluster subdivisions. Under current zoning, no new subdivision is required for Hearst to sell or build homes on the existing 271 legal parcels, including many parcels on the ocean side of Highway 1 as well as on the coastal terrace. There is no requirement under existing law to cluster these existing parcels nor is there any requirement to dedicate any agricultural easement or retire other legal parcels as a condition of building.

Exhibit 9.1: Public Comment—Letters

Statement: The Hearst Corporation wants pre-approval to build 27 homes of unrestricted size on 5-acre "envelopes," probably on discrete 25-acre lots, scattered around the interior of the ranch, but offers these will be "adjacent to existing roads and out of sensitive areas".

Fact: The conservation easement will limit residential development to 27 owner home sites with clustering requirements. Neither American Land Conservancy nor any of the potential funding agencies can “pre-approve” any development on the Ranch. Any proposed development allowed under the terms of the conservation easement will go through the normal permitting process at both the County and the California Coastal Commission, and likely require a LCP amendment and a full CEQA process.

In addition to clustering, the conservation easement will have strict siting criteria including, but not limited to Highway One and Hearst Castle viewshed protections, access from existing roads, habitat protections, maximum slope protections, wetland and stream setbacks and archaeological protections.

Statement: The Hearst Corporation wants pre-approval to build a 100-room resort at the beach across Highway One from the Hearst Castle, which attracts a million visitors a year.

Fact: The conservation easement will extinguish all current resort zoning (650 room resort in four phases with commercial and golf course) with the exception of a 100-room inn allowed in a 39-acre envelope contained within the existing San Simeon Village. Again, neither American Land Conservancy nor any of the potential funding agencies can “pre-approve” any development on the Ranch. Any proposed development allowed under the terms of the conservation easement will go through the normal permitting process at both the County and the California Coastal Commission.

Statement: The Hearst Corporation proposes to limit its activities east of the highway to "agriculture" through an agricultural easement.

This is except for the 27 unrestricted dwellings and any attendant uses - guesthouses, stables, pools, recreation facilities, and commercial uses allowed by County policy. Historically, the Hearst Ranch has been a cattle operation - a low-intensity use, but the Corporation wants an agricultural easement guaranteeing its right to future expansion to "active" agriculture like row crops, vineyards, and anything else that SLO County's liberal Ag policies currently allow, such as B&Bs, restaurants, wineries, wine tasting rooms, packing and processing plants, greenhouse complexes, ranch-support housing, dude ranches, etc.

In addition, the Hearst Corporation has also rejected the idea of a third party beneficiary to the Ag easement contract that could provide protection against any future renegotiation of the easement to allow additional resort development.

Fact: The conservation easement will be far more restrictive than current agricultural zoning. Current agricultural zoning allows over 400 homes to be built on 271 existing, separately saleable legal parcels. The proposed conservation easement will not allow B&B's, wineries or winery tasting rooms, etc. Current agricultural zoning allows unlimited agricultural intensification with no land use permitting requirements. Under the conservation easement, there will be strict limits on cropland, orchards and vineyards. The conservation easement is binding in perpetuity and cannot be renegotiated to allow additional development.

Statement: The Hearst Corporation would retain ownership of three sandy beaches and surrounding land west of the highway for private use, strictly limiting any public access.

These areas are the only significant sandy beaches on the property and the Hearst Corporation has previously proposed resort developments for all three sites. Cutting these beaches out of the fee purchase would create private inholdings on public land, force the planned California Coastal Trail onto the highway in those areas, and severely limit public access to some of the most desirable coastline. Additionally, it raises questions regarding the ability of the proposed easement agreement to prevent any future development on these sites if the easement agreement is renegotiated. All these beaches, as well as the entire Westside property, are currently open to reasonable public access, and have been for decades. The Corporation made a permissive use filing (CC Code 813) on this land in the 1970's as a way of extinguishing any historic right to public access; in return it must allow reasonable public use.

Fact: The section 813 permissive use notice is temporary and voluntary and can be unilaterally revoked by the property owner without notice. The conservation transaction will require public access to be allowed in perpetuity. There are 19 sandy beaches (approximately 6.9 miles and 155 acres) on the over 20 miles of coastline currently owned by the Hearst Corporation. All of the land on the west-side of the Highway will have public access. The vast majority of these beaches will be transferred into public ownership through the transaction, including the major beaches at San Carpoforo, Pt. Sierra Nevada, Arroyo de le Cruz, Arroyo del Corral, Piedras Blancas, and the world renowned Wind Surfer Beach. There will be no changes in current use of the San Simeon Point Beach that is currently accessible from W.R. Hearst State Beach. There will also be a continuous 18-mile segment of the California Coastal Trail created through this transaction.

For more information about American Land Conservancy or the Hearst Ranch Conservation Project, please contact Jeff Stump at (415) 740-3017 or jeff@alcnet.org. Or visit www.alcnet.org

Exhibit 9.1: Public Comment—Letters

Hearst Ranch Proposal Enforcement, Auditing & Monitoring—Concerns and Recommendations August 2004

- **Easement favors the Corporation.** The Conservation Easement agreements create a power differential favoring Hearst over the public's right to oversee the management of a public asset. The agreements also employ nonspecific language that will hinder implementation and enforcement of the Conservation Easements and could invite lawsuits that would indefinitely postpone the implementation and subsequent enforcement of the easements.
Requested change: The agreements should be revised throughout to balance the public's interests with those of the Hearst Corporation. Critical terminology should be accurately defined and guidelines for interpretation included wherever appropriate.
- **Weak enforcement.** As written, the State will have no direct enforcement of the Hearst Eastside Conservation Easement. The WCB may only effect enforcement indirectly through the cooperation of the Easement Holder. This is an unacceptable compromise of the public trust.
Requested change: The State should be either a direct party, or third party beneficiary, to the Conservation Easement with enforcement and monitoring authority.
- **No State Oversight.** The public has no effective mechanism for overseeing this public asset purchased with public money. The agreements have no process for public review and comment on the enforcement or amendment of the easements. Audit reports from up to three separate eastside entities are confidential with only summaries for public release.
Requested change: The public must have meaningful oversight of implementation, enforcement and any amendments. One management entity should hold all three of the possible easements on the eastside. Monitoring reports must be made public. Amendments should be approved only after a public hearing and a reasonable public comment period.
- **Hearst will be largely self-monitoring with minimal oversight.** Hearst will have inappropriate control over the Easement Holder(s), whom it may unilaterally replace, and the Auditing Committee, which meets in private only once every five years. Hearst is allowed effective control over both the management and issue resolution processes.
Requested change: The agreements should be revised to empower the Easement Holder(s) and the State to ensure that the easements and Management Plan are effective and enforceable tools for resource protection. The entities charged with monitoring Hearst's compliance must have sufficient independence and authority to effectively enforce the easements. Hearst should be required to petition the WCB to disqualify any Easement Holder and show just cause. The agreements should include a process for dealing with the failure of consensus in order to remove any incentive for obstructionism.
- **Hearst writes the management plan.** Hearst will have total control over the creation of the Conservation Easement Management Plan and the determination of any environmental impacts. The state has no role in the drafting or approving the plan, enforcement and monitoring of the easement, or for comment on future amendments or the determination of impacts.
Requested change: There must be an effective public process for review of the Management Plan, including DFG review and approval, which should be completed prior to the funding. Resource impacts should be analyzed by independent experts and publicly reviewed.
- The agreements give Hearst blanket and precedent-setting exemptions from many standard environmental protections.
Requested change: All language limiting the public's ability to protect its asset should be struck from the agreements. The agreements should be revised to recognize that some current activities on the ranch and the OSS Village Project might be counter to the goal of resource conservation and provide mechanisms for bringing these activities into

Exhibit 9.1: Public Comment—Letters

compliance. The agreements should require Hearst to abide by all future changes in regulatory requirements.

Prepared by California Coastal Protection Network. Kat McConnell, (805) 563-9665

California Coastal Protection Network



HEARST RANCH: RECOMMENDATIONS FOR THE SCC HEARING

I. Public Access

The proposed transaction would transfer land to the State and provide an opportunity to develop a Coastal Trail through the entire length of the Ranch property. However, the deal is problematic for the following reasons: (a) the land transferred would be subject to significant access restrictions included in the Scenic Easement; (b) the Coastal Trail alignment has not been determined (and currently is depicted along the Highway 1 corridor); and (c) the Hearst Corporation would severely restrict existing public access at the three areas that will remain in private ownership (San Simeon Point, Ragged Point and Pico Cove). In addition, the State's ability to plan for public access would be restricted by the Access Parameters and the requirement for approval by the Hearst Corporation. We recommend the following changes to the proposal:

Public Access Plan: The State should retain discretion to develop the Public Access Plan. The Plan should not be constrained by the Access Parameters, and should not be subject to approval by the Hearst Corporation.

State-owned property: Eliminate restriction prohibiting use 1/2 hour after sunrise and 1/2 hour before sunset. Require default of ownership to a public agency, not a private entity. If feasible, require full State ownership west of Highway 1. At a minimum, San Simeon Point and SS Cove should be owned and managed by the State as part of WRH State Park.

Coastal Trail: Clarify that DPR and SCC will determine alignment through a public process. Eliminate requirement for approval by the Hearst Corporation, and eliminate restriction prohibiting use 1/2 hour after sunrise and 1/2 hour before sunset.

San Simeon Point, Ragged Point and Pico Cove: Eliminate access restrictions including numbers of visitors, hours and days. Eliminate requirement for guided access. Consider mechanisms to ensure protection of natural resources, such as low-impact signs, clearly-marked trails, docent presence, etc. Make allowances for the Hearst Corporation to have exclusive use of their property for special events.

Public Access Support Facilities: Insure that parking areas, restrooms, and other necessary and appropriate access support facilities west of the Highway are allowed. Require development of support facilities to be minimal, low-impact, and sited outside the Highway 1 viewshed “where feasible.”

Junge Ranch: Extend timeframe for approval of tax credit legislation. If not, require low-cost visitor-serving overnight accommodations at Old San Simeon Village.

San Carpofo Trail: Require a study of the feasibility of preserving historic access along the San Carpofo Creek, inland to the Polar Star Mine, and on through the Windy Point Gap to the Baldwin Ranch in Monterey County, then over the Coast Ridge Divide to San Antonio Mission.

II. Protection of Conservation Values

The proposed easement documents purport to protect conservation values, but lack the necessary detail or oversight to guarantee such protection and secure public confidence in the deal. In addition, several provisions in the documents appear to conflict with coastal plans and recommendations previously approved by the County and California Coastal Commission, especially with respect to development, resource protection, public access and accommodation of low-cost visitor-serving facilities.

Resource Management: Require approval of the Management Plan by WCB and DFG prior to funding (similar to the requirement for State approval of Baseline Conditions Report and Monitoring Protocols). Allow public review of the Baseline Conditions Report, Management Plan and Monitoring Protocols prior to funding. Include monitoring for west side easements.

Planning and Permitting Authority: Clarify that the documents do not affect the discretion or authority of the relevant land use agencies (e.g., County of San Luis Obispo and California Coastal Commission) over land use planning and permitting matters, or regulatory agencies (e.g., CDFG, RWQCB, etc) that are charged with protecting public trust resources. Delete presumption that ranching activities and hotel at OSSV will not impair conservation values.

Consolidate Home-Sites: Require true clustering of the home-sites, in order to avoid fragmentation of habitat and agricultural resources. Require retirement of the certificates of compliance prior to funding. Eliminate the “Fallback Alternative” that allows development anywhere on the Ranch.

Agricultural Intensification: Conversion of agricultural grazing areas to cultivated agriculture should also be sited appropriately and consolidated to avoid fragmentation of conservation values.

Resource Extraction: Eliminate provisions for oil and gas production, mining, and water transfers.

III. Enforcement

The easement documents are generally enforceable by the easement holders, which results in self-monitoring. The State can only indirectly enforce the terms of the easement, after the easement holders fail to do so.

Direct Enforcement by the State: The State, through the applicable agencies (State Coastal Conservancy, Wildlife Conservation Board, Department of Parks and Recreation, and Department of Fish and Game) should have direct enforcement authority as co-holder of the easements or third party beneficiary status.

Monitoring: The State, not Hearst, should decide the identity, frequency, and type of monitoring to occur on the Ranch.

California Native Plant Society

August 4, 2004

Mr. Steve Schuchat
Executive Office
California Coastal Conservancy
1330 Broadway, 11th Floor,
Oakland, CA 94612-2530

RE: Hearst Ranch.

Dear Mr. Schuchat:

The California Native Plant Society (CNPS) is a statewide non-profit organization of some 10,000 scientists, educators, and laypeople dedicated to the conservation and understanding of the California native flora.

During the Fall of 2003, some members of the San Luis Obispo Chapter of CNPS were given a tour of a portion of Hearst Ranch by Mr. Roger Lyon, the agent representing the Hearst Corporation. On the basis of that tour, and the promises we heard that botanic resources on the Ranch were to be protected, CNPS expressed tentative support to the project.

CNPS must now, with deep regret, **withdraw that support**. CNPS had awaited the release of biological surveys or other indicators that rare plant populations and coastal prairie grasslands would not be significantly affected by either the location of homes or conversion of grazing lands to row crops or vineyards. After a long time wait for the release of documents, the files were placed on the Department of Resources web site. There was no biological evaluation, and areas of rare coastal prairie appear to be marked for agricultural conversion.

Members of the San Luis Obispo Chapter and others in the botanic community are aware of extremely valuable botanic resources on the Ranch, particularly in the vicinity of Arroyo de la Cruz. Many years ago when field trips were permitted into this area, considerable numbers of professional botanists studied the flora. These trips were made with the permission of ranch management, and did not constitute trespass.

Hearst Corporation has further aggravated the uncertainty issue by making botanists who worked on the plan abide by confidentiality agreements. Had CNPS been able to talk to botanists who might have told us that house sites were indeed free of rare plants, we may have maintained our support.

The Natural Diversity Database reveals the presence of fifty-one species of concern, some of which are endemic to the ranch. The state recognizes three of these as endangered species and five as threatened species, with many more on CNPS' List 1B within the CNPS Inventory of Rare and Endangered Plants. It is the opinion of several botanists that some of the proposed home-sites may directly impact rare plant populations. Each home-site is 25 acres that is not governed by the conservation agreements, and allows for significant agricultural disturbance. This includes sites that support the rare Hickman's onion, the Arroyo de la Cruz Mariposa lily, and the Hearst ceanothus and the Hearst manzanita (two species named after the ranch as they are local



Dedicated to the preservation of California native flora



Exhibit 9.1: Public Comment—Letters

endemic species). There is also concern that some of the higher elevation house sites are within Santa Lucia fir forest.

Representatives of the Ranch have told the public that the requirements of the California Environmental Quality Act will apply when any home-site owner applies for a development permit. We are troubled by the proposed clause in “Exhibit H New Owner Homesite and Subdivision Criteria” that allows a “Fallback Alternative to Clustered Owner Homesite Parcels”. This failure to establish the presence or absence of species at this time might, at a later date, flag rejection of a home site under the provisions of CEQA and CESA. It will not only place the home-sites outside of the protections of the conservation easement, but will possibly be the trigger to allow house sites to be placed in undesirable locations relative to the original goals of the conservation easement. We would therefore ask that the “Fallback Alternative” not be applied in cases where biological reviews have not been performed at this stage, and they only be applied as a “No Surprises” clause where dependable biological surveys at this time have been performed and are publicly recorded.

CNPS also asks that the Coastal Prairie be re-evaluated through independent review. It is our opinion that the acreage has been much under-reported. This appears to be a strategy to convert this coastal prairie to non-grazing use. There appears to be no accurate survey of vegetation communities that is open to public discussion. The Natural Diversity Database should have been queried for rare or threatened plant communities, and a constraints analysis applied to agricultural conversion that would be designed to protect high value plant communities and the animals which depend on them. The document, WCBGrantAgreement3B.pdf, does not include the Exhibit which would define what resources are to be protected, either at the species or at the plant community level. CNPS asks that the conservation criteria that will protect rare plants and plant communities be made public and that the Wildlife Conservation Board does not commit to a course that will allow a legally sanctioned destruction of these precious resources to take place.

Lastly, CNPS is concerned about the lack of presence of a trustee agency on the policing of the conservation easement. It appears that only the condition of the grazing land will be evaluated, as there is nobody in the proposed California Rangeland Trust (CRT) Audit Committee who would have the mandatory function to review the condition of rare plants and habitats. CNPS recommends that the CRT audit committee have the capability to evaluate biological resources, and that language be added that obligates CRT to respond to non-compliance concerning protection of those resources.

Finally, let me emphasize that, if there is significant assurance that this global diversity hot spot is not devastated due to the political expediency of the moment, CNPS would support this project.

Sincerely



David H. Chipping
Conservation Director
CNPS

RECEIVED
AUG 12 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

**Hearst Ranch Proposal
Transparency-Concerns and Recommendations
August 2004**

Early in the negotiating process, the Hearst Corporation assured Coastwalk and other groups to that would be quite satisfied with the final outcome of the California Coastal Trail (CCT) portion of the framework, which says this about the CCT: “Provide Permanent Public Access to the Coastline.” “Provide the longest segment of the CCT: approximately 18 miles of trail west of Highway One.”

Unfortunately, the public access provisions of the deal fall far short of the promise of the Framework. The CCT Framework was purposely vague, and we are disappointed, but not surprised, that the deal has not kept to the spirit of the Framework or state law. Specifically:

- **The easement restricts access to San Simeon Point, Pico Cove and Ragged Point.**
The Coastal Trail bypasses San Simeon Point, and access to Pico Cove and Ragged Point is restricted to quarterly tours of 20 persons each. Article 10 of the State Constitution guarantees the public access to the states tidelands.
***Suggested change:** Vertical access to all sandy beaches along the entire 18-miles of coastline should be guaranteed, and should include San Simeon Point. The best way to accomplish this is through full fee title acquisition by the state of all lands west of the Highway.*
- **The Trail hugs the Highway.** The proposal routes the CCT along the highway for about 5 miles over the lands that Hearst retains. These easements are far from the shore. SB 908, (Chesbro) aka the “Coastal Trail Bill” calls for the trail to follow the coastline, as does the Coastal Act of 1976.
***Suggested change:** The CCT should be routed as close to the bluff as possible, within the constraints of wildlife and sensitive habitats.*
- **Access and resource protection can be compatible.** Siting the trail along the highway severely diminishes the hiking experience. Habitat impacts can be avoided by careful trail design. Point Lobos State Reserve, for instance, is a highly protected, successfully protecting the landscape and habitat while providing a quality hiking experience.
***Suggested change:** A public process including the Coastal Conservancy, State Parks, The County of San Luis Obispo, Coastwalk and the general public should be invoked to site and design the final trail alignment.*
- **Caltrans Easement limits use of CCT.** Under the terms of the easement, public use of the CCT will be limited to ½ hour after sunrise to ½ hour before sunset, even on the 13 miles of the trail owned and managed by State Parks. This means nobody will ever be able to enjoy a sunrise or sunset on the trail, or a moonlight walk. The easement further restricts even minimal development such as restrooms and parking areas along the route.
***Suggested change:** State Parks should be able to plan and manage the CCT appropriately, free from encumbrances imposed by the easement.*

Everyone would like to see a strong conservation deal made for the Hearst Ranch. The parties involved have worked diligently to create the deal, and now that some, but not all provisions of it have been revealed, it is time for the State representatives, representing the interests of the public, to take a strong hand in making this deal live up to it’s potential.

Prepared by Coastwalk. Richard Nichols, (707) 829-6689

Exhibit 9.1: Public Comment—Letters

Hearst Ranch Proposal Transparency-Concerns and Recommendations **August 2004**

Despite assurances that the public would be able to review the Hearst Ranch easement and associated documents for 30 days in advance of the first public hearing, the information posted on the Resources Agency website on 7/12/04 lacks critical information that is essential for meaningful review.

Baseline resource inventory will not be made public. This is the document that details the type, extent, location and condition of the myriad species and habitat types on the ranch. Without this information it is impossible to determine if the management practices and monitoring protocol are adequate to protect the unique and unparalleled biodiversity on site. It also makes it difficult to assess the appropriateness of the proposed development locations. From the language in the easement it is not clear whether this inventory is complete at this time. But it is cause for alarm that its final status will be determined by the corporation and the easement holder, not the Department of Fish and Game.

Requested change: *In order to have the ability to provide meaningful analysis of the easement, the baseline surveys must be released in advance of final approval.*

Management Plan will be prepared by Hearst. Equally troubling is the fact that the enforceable, specific policies detailing how the Hearst Corporation will protect the ranch's biological resources are not contained in the easement. Instead, these will be contained in a management plan that the *Hearst Corporation will prepare a year after the deal is funded*. This means that there are no conservation policies or practices currently available for the public to review, and the corporation will be drafting that plan with no public participation or oversight a year after the check is cashed.

The management plan is the core of any conservation easement, for without that portion of the agreement, there is absolutely no assurance that habitat will be protected and biodiversity maintained. When compared with the proposed levels of new development (3,000 acres of intensified agriculture, 42 homesites, retained oil, gas and mineral development, water extractions for sale off site, 100 room hotel, "relocated" roads, recreational facilities, vineyards, orchards, winery) there is every reason to be concerned that if fully implemented, the plan as written will actually degrade, not preserve and restore, all 7 watersheds on the ranch.

It should be noted that the Hearst Ranch contains unique, endemic and rare species and habitats, some found nowhere else on earth, making the biodiversity of this property truly global in its significance. An easement of this size and scope should be carefully crafted and fully understood by the reviewing agencies as adequate to protect these irreplaceable biological resources before being funded by them.

Requested change: *The management plan should be reviewed and approved by the Department of Fish and Game and available to the public for comment in advance of final approval/funding.*

Exhibit 9.1: Public Comment—Letters

Monitoring Protocols not complete. The Monitoring Protocol, which describes how the conservation goals contained in the management plan will be implemented, is similarly deferred to a later date. Monitoring is critical to ensuring that the goals of the easement are being met, and the monitoring protocol is critical to ensuring that acceptable professional standards are adhered to. The frequency, timing, methodology and level of professional expertise of the monitors.

Requested change: *The Monitoring Protocol should be completed in consultation with the Department of Fish and Game and made available for public review in advance of final approval/funding.*

These three documents (baseline studies, enforceable policies and monitoring protocol) together represent the most basic and essential information that the public must have access to in order to have meaningful input on the adequacy of the easement to protect resources. Clearly the document goes to great lengths to describe how continued and additional agricultural uses and future development rights will be guaranteed. The document should devote at least the same amount of attention to a discussion how the natural resources on site will be preserved. Asking the public to review this deal without these 3 documents is like asking someone to test drive a car without an engine, transmission or wheels. The 30-day clock for public review should not begin to run until that basic information is available.

Prepared by Defenders of Wildlife, Kim Delfino, (916) 313-5809

Exhibit 9.1: Public Comment—Letters

August 9, 2004

Wildlife Conservation Board
1807 13th Street, Suite 103
Sacramento, CA 95814

Re: Comments on Hearst Ranch Conservation Agreement;
Item 35, August 12, 2004

Dear Wildlife Conservation Board,

On August 12, 2004, the Wildlife Conservation Board (“WCB”) will consider allocating \$34.5 million of Proposition 50 funds to the Hearst Ranch Conservation Agreement. **We have serious concerns about the draft documents, and urge the Board to take no action at its hearing in order to provide time to make the required modifications and allow for additional public comment.**

We have five major concerns with the draft documents. These concerns, which are outlined in additional detail below, include:

- missing information related to Ranch management, monitoring, and baseline conditions;
- minimal public oversight to ensure that all parties comply with the terms of the easement;
- a reduction in coastal access that the public has enjoyed for decades;
- the amount and location of allowable development fails to protect views and habitat; and
- intensive resource extraction that is incompatible with conservation.

In addition, we share the concerns of the California Coastal Commission (“CCC”) and the Legislative Analyst’s Office (“LAO”) related to the appraisal of this transaction. We continue to believe that the State Coastal Conservancy’s (“SCC”) appraisal overestimated the existing development potential of the Hearst Ranch, and thus inflated the value of this agreement. We are also concerned over the secrecy of the State Department of General Services (“DGS”) report, which questions the overall value of these appraisals yet has not been released to the public (state agencies are even refusing to release a summary of this crucial report).

Finally, we note that any conservation deal for the Hearst Ranch must uphold the stated purpose of Proposition 50 funds, which is to:

Protect, restore, and acquire beaches and coastal uplands, wetlands, and watershed lands along the coast...to protect the quality of drinking water,

Exhibit 9.1: Public Comment—Letters

to keep beaches and coastal waters safe from water pollution, and to provide the wildlife and plant habitat and riparian and wetlands areas needed to support functioning coastal...ecosystems for the benefit of the people of California.⁵⁴

However, the amount of development allowed under this easement, and its emphasis on Hearst's private gain over public benefit, may disqualify this transaction from complying with these purposes.

We respectfully request that the WCB take no action at its August 12 hearing. This would provide for additional time for state agencies to release several missing documents for public review and comment, and would also improve coordination with the SCC hearing scheduled for September 15, 2004. Most importantly, it would allow all parties to return to the negotiating table to craft a conservation easement that truly *conserves* the important resources of the Hearst Ranch.

A. MISSING INFORMATION

The California Resources Agency assured the public that the Hearst Ranch easement, in its entirety, would be available for review at least 30 days before the first public hearing. However, with the WCB hearing date rapidly approaching, the documents posted on the Resources Agency website on July 12, 2004 lack critical documents that are referenced in the easement. These missing documents – the Baseline Resource Inventory, the Management Plan, the Monitoring Protocol, and the DGS Appraisal Summary – are essential for meaningful public review.

It should be noted that the Hearst Ranch contains unique, endemic, and rare species and habitats, some found nowhere else on Earth, making the biodiversity of this property truly global in its significance. An easement of this size and scope should be carefully crafted and fully understood as adequate to protect these irreplaceable biological resources *before* funding is allocated.

1. The Baseline Conditions Report is not finished and must be made available to the public before WCB approval.

The Baseline Conditions Report consists of maps, photos, and other documents that provide an accurate representation of the existing condition of the Ranch. In particular, it includes detailed accounts of the type, location, extent, and condition of existing structures, other improvements, plant and animal distributions, and sensitive resources. The baseline report is necessary to ensure adequate monitoring and enforcement of easement terms.

⁵⁴ See Cal. Water Code § 79501(h). Specifically, Proposition 50 states that the purpose of the \$120 million available to the SCC is “coastal watershed protection.” See Cal. Water Code § 79570(a). The \$750 million available to the WCB is for the “acquisition, protection, and restoration of coastal wetlands, upland areas adjacent to coastal wetlands and coastal watershed lands.” See Cal. Water Code § 79572(a).

Exhibit 9.1: Public Comment—Letters

Despite the important role that the baseline report plays in monitoring and enforcing the easement, the baseline report is not completed and has not been released to the public. Without this information, it is impossible to determine whether the management practices and monitoring protocol are adequate to protect the resources on site. It also makes it difficult to assess the appropriateness of the proposed development locations.

While the WCB must approve the baseline report before funds are allocated,⁵⁵ it is unclear whether this approval must take place during a public hearing, and whether this critical document will be available to the public. In order to provide meaningful analysis of the easement, the baseline report must be released in advance of final approval.

2. The Management Plan is not finished and must be made available to the public before WCB approval.

As noted by the recent LAO report, the easement lacks specific, enforceable policies and standards to ensure protection of Ranch resources. The management plan, which will supposedly contain these standards and is the core of any conservation easement, will not be in place once the easement is signed. Instead, the easement allows the management plan to be prepared by Hearst up to a full year after this deal is funded, and is not subject to public review.

First, the easement allows the Hearst Corporation to draft its own Management Plan.⁵⁶ This plan need not be approved by *any* State agency,⁵⁷ but rather need only be approved by the American Lands Conservancy (“ALC”), a private corporation with no public accountability or oversight. The easement requires ALC to approve the Management Plan so long as it is consistent with the conservation easement.⁵⁸ However, as stated above, the easement contains very few specific policies and standards that would create an inconsistency with the Management Plan. And if Hearst were to dispute ALC’s inconsistency determination, then ALC would have to either consult with a Hearst-approved expert or be subject to a Hearst lawsuit and be liable for Hearst’s attorney fees.⁵⁹

⁵⁵ See *WCB Grant Agreement* § 2.2 (“Grantor’s obligation to deposit the Grant Funds into escrow is conditioned upon and subject to satisfaction of all of the following conditions precedent: ... Grantor [WCB] shall have reviewed and approved the Baseline Conditions Report described in Recital F of the Easement.”).

⁵⁶ See *East Side Easement* § 6(c) – Planning and Consultations (“Within one year after the Effective Date, Grantor [Hearst] shall submit a written management plan (“Management Plan”) for Grantee’s [American Land Conservancy] review and approval.”).

⁵⁷ See *WCB Grant Agreement* § 3.8 (“Grantee [ALC] shall make available to Grantor [WCB]...a copy of each management plan or amendment thereof developed pursuant to the Easement, and shall provide Grantor a reasonable opportunity (not less than 45 days) to review and provide comments and suggestions on such plan prior to its approval by Grantee.”). There is no mechanism to ensure that Hearst actually includes WCB’s comments and suggestions into the final Management Plan.

⁵⁸ See *East Side Easement* § 6(c) – Planning and Consultations (“The only basis upon which Grantee [ALC] may refuse to approve the Management Plan shall be Grantee’s determination that the Management Plan is inconsistent with this Conservation Easement.”).

⁵⁹ See *East Side Easement* § 16(b) – Issue Resolution. See also *East Side Easement* § 16(c) – Judicial Enforcement.

Exhibit 9.1: Public Comment—Letters

Second, the Management Plan need not be prepared until a full year after the Grant Agreement is signed and the Hearst Corporation cashes its \$34.5 million check from WCB. This delay has two negative repercussions: (1) the State agencies, as well as the public, are not informed about the specific protections that their money is buying, and (2) during the year between the signing of the Grant Agreement and the approval of the Management Plan, there are minimal resource protections in place. In fact, the only resource protections in place before the Management Plan is approved is a two-page document titled “Interim Management Criteria” that only addresses grazing impacts to rangeland health.⁶⁰

The Management Plan should be completed and reviewed by the Department of Fish and Game and available to the public for comment in advance of final approval.

3. The Monitoring Protocol is not finished and must be made available to the public.

The Monitoring Protocol will describe the methods by which the easement holder will monitor and enforce the conservation goals contained in the Management Plan as well as the easement itself.⁶¹ Specifically, the Monitoring Protocol will set forth standards and methodologies guiding the frequency and types of monitoring as well as the resolution of disputes. Despite its importance, the Monitoring Protocol is similarly incomplete.⁶² Moreover, it is unclear whether the Monitoring Protocol will be released to the public upon completion. During the public workshop in Cayucos on July 15, 2004, Nita Vail, the Executive Director of the California Rangeland Trust (CRT), the east-side easement holder, stated in absolute terms that the Monitoring Protocol would be released to the public before the WCB hearing. To date, the Monitoring Protocol is not publicly available.

The Monitoring Protocol should be completed and released to the public before State agencies allocate funding for the agreement.

4. A summary of the DGS appraisal report has not been released to the public as promised.

State agencies have repeatedly promised that they would release to the public a summary of the DGS appraisal report. This public release was supposed to occur at least 30 days before the WCB hearing. To date, the public has been denied access to this summary, wherein the DGS concludes that the fair market value of this transaction is valued closer to \$110 million.⁶³ This summary is important because it calls into question the overall

⁶⁰ See *East Side Easement, Exhibit E – Interim Management Criteria*

⁶¹ See *WCB Grant Agreement* § 3.5 (“Grantee [ALC] shall monitor Landowner’s [Hearst] compliance with the Easement in accordance with the monitoring protocol for the Property set forth in Exhibit D.”).

⁶² See *WCB Grant Agreement, Exhibit D – Easement Monitoring Protocol*, which states in full that “Specific monitoring protocol for the Property is under development. Protocol will be completed prior to disbursement of Grant Funds and attached to Grant Agreement upon completion.”

⁶³ See letter from Hadley Johnson, Deputy Legislative Analyst to Sen. Wesley Chesbro, dated August 3, 2004, p. 2.

value of this deal, and suggests that the SCC's appraisal of \$230 million is significantly inflated.

These four documents – Baseline Report, Management Plan, Monitoring Protocol, and DGS Appraisal Report – together represent the most basic and essential information that the public must have in order to provide meaningful input on the adequacy of the easement. Clearly, the easement describes in great detail guarantees for future agricultural and development rights, and should devote at least the same amount of attention to the preservation of natural resources.

B. PUBLIC OVERSIGHT

The conservation of the Hearst Ranch is one of the highest-profile land deals of all time. A conservation agreement of such magnitude requires tremendous public oversight to ensure that the terms of the agreement are upheld in perpetuity. However, the draft easement contains minimal provisions for public oversight, which may lead to conflicts over monitoring and enforcement in the future.

1. The State should be a direct party to the easement to provide for public oversight of its implementation.

The State is specifically excluded as a party to the draft eastside easement.⁶⁴ Since the State is not a party to the easement, the State on behalf of the general public will not have any direct enforcement of the terms of the easement. Instead, the State has only indirect enforcement powers that extend only to the easement holder, not the Hearst Corporation.⁶⁵

The easement should be modified to designate the State as either a direct party to the easement, or as a third party beneficiary, to allow direct enforcement action against the Hearst Corporation in the event of a breach.

2. Monitoring is weak and must be strengthened to ensure compliance with easement terms.

The Monitoring Protocol, once completed, will not keep the public adequately informed about monitoring and enforcement activities on the Ranch. The Grant Agreement requires that ALC/CRT conduct periodic monitoring of Hearst's compliance with the

⁶⁴ See *East Side Easement*, § K (“WCB is not a party to this Conservation Easement and Grantor is not granting any interest or rights to WCB by its conveyance of this Conservation Easement to Grantee”).

⁶⁵ See generally *East Side Easement*, wherein the easement holder has the sole authority to enforce the easement against Hearst. If ALC/CRT fail to enforce the terms of the easement, then and only then may the State step in and undertake enforcement action under the Grant Agreement. However, the State's enforcement powers only extend to ALC/CRT, not to the Hearst Corporation. See *WCB Grant Agreement* § 3.1 (“Grantee [ALC/CRT] shall manage, maintain, enforce and defend the Easement in a manner that is consistent with this Agreement.”)

Exhibit 9.1: Public Comment—Letters

easement terms, and to submit all monitoring reports to WCB.⁶⁶ The public, however, only receives a Hearst-approved summary of these monitoring reports once per year. The Grant Agreement should be modified to allow public review of all monitoring reports in full, not just annual summaries thereof.

Moreover, under the easement the Hearst Corporation wields excessive power over the entire monitoring process. First, Hearst can limit the entry of monitors onto the Ranch to only one four-day time period per year.⁶⁷ This limitation does not provide for adequate monitoring, on a seasonal basis, of an 80,000-acre property. Moreover, the monitors must give Hearst two weeks notice before entering. Second, Hearst has veto power over the identity of certain monitors, such as expert biologists and other consultants that play an important role in the monitoring process.⁶⁸

3. The audits occur infrequently and may be controlled by the Hearst Corporation.

The easement requires the Hearst Corporation to allow audits of ALC/CRT monitoring and enforcement pursuant to the Audit Policy and Procedures.⁶⁹ However, auditing occurs very infrequently and is heavily influenced by the Hearst Corporation.

First, the audit occurs once only every five years.⁷⁰ This is an excessive amount of time, and should be changed to once every two years.

Second, Hearst holds tremendous power and influence over the auditing process. Hearst is one of only four members of the Audit Committee.⁷¹ This gives Hearst undue influence into the auditing process because the Audit Committee selects auditors “by consensus,” meaning Hearst has veto power over the identity of any auditor.⁷² Hearst

⁶⁶ See *WCB Grant Agreement* § 3.5 (“Grantee shall monitor Landowner’s compliance with the Easement in accordance with the monitoring protocol.... Grantee shall make available to Grantor, for inspection at Grantee’s offices...each monitoring report completed by Grantee under the Easement Monitoring Protocol. Grantee shall also submit annually to Grantor, for public disclosure, a summary monitoring report documenting the occurrence of all monitoring conducted during the preceding twelve-month period and describing and assessing the condition of the Property and the status of Landowner’s compliance with the Easement, including the status of any actions taken by Grantee to resolve any compliance issues.”).

⁶⁷ See *East Side Easement* § 16(a) – Right of Entry, which states that Authorized Monitors “shall have the right to enter at least annually with two week’s advance notice onto the Easement Area for purposes of monitoring compliance with the terms of this Conservation Easement. Entry shall be by no more than four (4) Authorized Monitors for no more than four (4) days per year for the Easement Area.”

⁶⁸ See *East Side Easement* § 16(a) – Right of Entry, which defines Authorized Monitors as “Officers, directors and employees of Grantee [ALC/CRT], and Grantee’s contractors approved by Grantor [Hearst] in Grantor’s sole discretion.”

⁶⁹ See *East Side Easement* § 16(a) – Right of Entry (“In addition, Grantor [Hearst] shall allow access for independent audits of Grantee’s [ALC/CRT] monitoring and enforcement of this Conservation Easement in accordance with the Audit Policy and Procedures.”).

⁷⁰ See *East Side Easement*, Exhibit I – CRT Audit Policy and Procedures, § F (“Each conservation easement project shall be audited not less frequently than once every five years.”).

⁷¹ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § B – Audit Committee.

⁷² See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § C (“The Audit Committee will select each auditor engaged by CRT to conduct an audit of one or more of CRT’s conservation easement projects. Each such selection shall be made by consensus.”).

Exhibit 9.1: Public Comment—Letters

wields this veto power over other actions by the Audit Committee, such as inspection of the Ranch.⁷³

The easement holder, CRT, also has a seat on this Audit Committee, putting the easement holder in the position of monitoring its own activities.⁷⁴ Results from this type of self-monitoring will lack credibility, as any legitimate auditing procedures must be carried out by independent, disinterested third parties.

Finally, there is no public oversight of the auditing process. While the California Resources Agency holds a seat on the Audit Committee, it is forced to keep confidential all written records of the Audit Committee.⁷⁵ At a minimum, the full Audit Committee reports should be available for public review, the Audit Committee should include qualified, independent biologists, and Hearst and CRT should be ex-officio non-voting members of the committee.

4. Amendments to the easement language are not subject to public review and comment.

The Hearst Corporation may amend the easement with the written consent of the Grantee (ALC/CRT) and the WCB.⁷⁶ However, the Grant Agreement, which gives the WCB the power to approve any amendment, does not require any public review or comment of such amendments prior to WCB approval. For the public to have faith in the perpetual duration of this easement, the WCB must commit to a public process prior to approval of any amendments.

The easement should be modified to allow WCB to approve an amendment to the easement only after a public hearing and a reasonable public comment period.

5. Easement language is weak, vague, and often discretionary, which may lead to difficulties in enforcement in the future.

The easement documents are peppered with unenforceable terminology, such as “reasonable.” The LAO agrees, stating in a recent report that

⁷³ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § G (“The Audit Committee, acting by consensus, may decide that inspection by the Audit Committee of the subject easement property is appropriate to adequately inform the Audit Committee’s review of one or more elements of the audit report.”).

⁷⁴ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § B – Audit Committee.

⁷⁵ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § I (“Each audit report and all written records of the deliberations of the Audit Committee shall be treated as confidential business records and shall not be circulated to anyone other than current members of the Audit Committee, the CRT management and staff, and the Board of Directors.”).

⁷⁶ See *East Side Easement* § 20 – Amendment of Conservation Easement (“This Conservation Easement may be amended only with the written consent of Grantee [ALC/CRT] and Grantor [Hearst].”) See also *WCB Grant Agreement* § 3.1 (“Grantee [ALC/CRT] shall not consent to any amendment of the Easement without the prior written consent of Grantor [WCB].”).

Exhibit 9.1: Public Comment—Letters

we are concerned that the terms of the easement do not provide an adequate level of specificity to protect these resources.... In the future, without specificity regarding the protection of the natural resources, the parties to the agreement may find themselves in conflict over the level of protection that is appropriate.⁷⁷

In general, the easement language should be strengthened and specified to set forth clear standards for protection of Ranch resources.

6. A loophole in the easement provides immunity to all current activities on the Ranch, and to the proposed Old San Simeon Village Project, even if they threaten habitat values.

The draft easement declares that all “present uses in their current locations” on the Ranch are deemed compliant with the terms of the easement.⁷⁸ Thus, *all* current activities on the Ranch are *completely* exempt from the easement’s provisions, regardless of the impacts these existing activities may continue to cause to Ranch resources. This exemption must be deleted because it allows Hearst to continue activities that may have direct and harmful impacts to conservation values and is contrary to the purpose of the conservation agreement.

Moreover, the easement lacks a detailed list of “present uses” that will fall under this exemption. The Baseline Conditions Report is supposed to contain such a detailed list, but this report is still unfinished, leaving State agencies and the public in the dark about which existing activities on the Ranch are exempt from the easement’s protections.

The Old San Simeon Village Project receives similar immunity under the easement. Specifically, the easement states that “the development of the OSSV Project, or any integral element thereof, shall not be deemed to impair Conservation Values.”⁷⁹

The agreement should be revised to recognize that some current activities on the Ranch might be counter to the goal of resource conservation, and provide a mechanism for bringing these activities into compliance. The Old San Simeon Village Project should not be deemed compliant with the easement since it may impact conservation values.

⁷⁷ See Letter from Hadley Johnson, Deputy Legislative Analyst to Senator Wesley Chesbro, Chair of the Joint Legislative Budget Committee, dated August 3, 2004, pp. 2-3.

⁷⁸ See *East Side Easement* § 14 – Rights Retained by Grantor (“Grantor’s [Hearst’s] present uses in their current locations are deemed to be consistent with the terms of this Conservation Easement”). See also *East Side Easement* § F (“nor is this [Baseline Conditions] report to be used to change or interfere with Grantor’s exercise of its retained rights in accordance with the Conservation Easement”).

⁷⁹ See *OSSV Conservation Easement* § 5 (“No installation, construction, reconstruction, replacement, operation or maintenance of any building, facility or structure of any type shall be allowed to impair Conservation Values; provided, that the development of the OSSV Project, or any integral element thereof, shall not be deemed to impair Conservation Values”); see also *OSSV Conservation Easement* § 1 (“The Parties agree that Grantor’s [Hearst] retention of certain rights specified in this Conservation Easement, including specified agricultural, commercial, and recreational uses, is consistent with the Conservation Purpose.”)

C. PUBLIC ACCESS

While the proposed agreement between the State and the Hearst Corporation provides for public access, it does not provide sufficient public benefit, and in fact reduces existing public access in important coastal areas. To ensure continued and enhanced public access, all lands west of Highway 1 should be deeded to the state in fee. If this transfer is not feasible, however, then the state must oversee an easement that preserves public coastal access consistent with natural resource protection.

1. The easement should not allow the Hearst Corporation to retain private beaches.

The Hearst Corporation proposes to deed most land west of Highway 1 to the State, but retains private ownership of several coastal parcels. These areas have supported unrestricted public coastal access for generations, and should be deeded to the State in full to maintain this access consistent with natural resource protection.

The Hearst Ranch encompasses 1,656 acres of coastline west of Highway 1. However, under the proposed agreement, only 949 acres would be transferred outright – in fee – to the State Department of Parks and Recreation. The Hearst Corporation would retain the remainder of the land, meaning that nearly 43% of the Hearst Ranch west of Highway 1 will remain in private ownership. These retained areas include San Simeon Point, Ragged Point, Pico Cove, and Old San Simeon Village, where much of the existing public access is concentrated.

Private beaches and private coastal inholdings are contrary to the State's public access goals as expressed in the State Constitution and the Coastal Act and contrary to the public's expectations for this deal – that all the land west of Highway 1 should be in the public domain. Further, we question the State paying such considerable sums of money for coastal land and conservation easements, only to have wealthy landowners with estates on the inland side of Highway 1 retain beaches and bluffs on the west side for their private use.

To preserve public access and coastal resources, the agreement should require the Hearst Corporation to deed to the State *all* lands west of Highway 1, including San Simeon Point, Pico Cove, and Ragged Point.

2. The easement should preserve existing coastal access, not restrict it to certain days and times.

Currently, the public enjoys unlimited access to trails and the beach at San Simeon Point, Ragged Point, and Pico Cove. The proposal would significantly reduce this access, and could prohibit public use completely under certain circumstances.

Exhibit 9.1: Public Comment—Letters

For example, at San Simeon Point, the proposal would limit public access to 300 days per year, for up to 100 people per day.⁸⁰ Thus, for two months out of the year, the Hearst Corporation could completely restrict access to areas the public has enjoyed for generations. Furthermore, nothing in the proposed easement would prevent private guests at the proposed Hearst Inn at Old San Simeon Village from filling the 100 slots for public access, to the exclusion of the general public. Nor would the public be able to witness a sunset from this area, as access to San Simeon Point would be limited to ½ hour after sunrise to ½ hour *before* sunset.⁸¹ Furthermore, the document allows access at San Simeon Point to be restricted to guided tours, preventing the public from seeking solitude and exploring San Simeon Point trails on their own.⁸²

Public access at Ragged Point and Pico Cove is even more restricted. At these areas, the draft easement would limit trail access to 20 people on a guided tour every three months, for a total of only 80 people per year.⁸³

For each of these areas, the easement should be revised to retain public trail and beach access throughout the year, without limitations on the numbers of people per day or the requirement for guided tours. The access should include trail delineations (including roping if necessary) and signage to protect natural resources. Restrictions prohibiting motorized, bicycle, and equestrian access would further protect the resources. Finally, the trails to the blufftops and beaches should be linked to the Coastal Trail at reasonable intervals and should provide beach access where feasible.

3. State Parks should not be able to transfer the public access easement to a third party.

The draft public access easement identifies the State Department of Parks and Recreation as the easement holder. However, the easement allows DPR to transfer the easement to a third party, which could compromise public access in these areas.⁸⁴

⁸⁰ See *State Parks Public Access Conservation Easement, Exhibit D – Access Parameters*, pp. 1-3 (“controlled public access shall be allowed as set forth in the Public Access Plan consistent with the following parameters: ... Controlled Public Access to accommodate up to 100 people per day” and “Public access shall be not less than 300 days per year”).

⁸¹ See *State Parks Public Access Conservation Easement, Exhibit D – Access Parameters*, p. 2 (“Access during daytime hours only (with access beginning no earlier than ½ hour after sunrise and ending no later than ½ hour before sunset)”), and *Exhibit D-2 San Simeon Point Recommended Access Plan*, p.3 (“San Simeon Point should be available to the public no less than 300 days a year to allow other necessary uses to take place on the property (maintenance, grazing, and resource protection/restoration, Hearst operations).”)

⁸² See *State Parks Public Access Conservation Easement, Exhibit D – Access Parameters*, p. 1 (“The San Simeon Point Public Access Plan shall include a proposal for the type of controlled Public Access including recommendations for whether controlled access is supervised or guided, etc...”).

⁸³ See *State Parks Public Access Conservation Easement, Exhibit D – Access Parameters*, p. 3 (“Twenty-person guided walking tours will be held quarterly on Sundays”).

⁸⁴ See *State Parks Public Access Conservation Easement § 7(a) – Grantee Transfer of Public Access Easement*, p. 5 (“Grantee may assign its interest, rights and obligations under this Conservation Easement...”).

Exhibit 9.1: Public Comment—Letters

The State should not be able to transfer the public access easement to a third party. This change would ensure that public access remains under the authority of the State of California, which is empowered under the State Constitution and the Coastal Act to preserve and manage public access.

4. The Coastal Trail is too close to Highway 1, and time limits on its use are improper.

The Coastal Trail is an ongoing effort to build a network of trails along the entire California coastline. The Hearst Ranch, occupying 18 miles of coastline, is an integral part of this vision. The draft easement accommodates the passage of the Coastal Trail through the Hearst Ranch. However, as envisioned in the easement, the Coastal Trail is too close to Highway 1, and allows a private corporation to place unreasonable time restrictions on its use.

First, the proposed Coastal Trail would be located in close proximity to Highway 1.⁸⁵ This would negatively impact the hiking experience and is clearly designed to accommodate the Hearst Corporation's desire to keep the public as far away as possible from their private inholdings. Instead, the Coastal Trail alignment should be relocated as close to the coast as feasible, accounting for public safety and protection of sensitive resources.

Second, the public is restricted to using the Coastal Trail from ½ hour after sunrise to ½ hour before sunset.⁸⁶ Again, such time restrictions are unnecessary and should be deleted from the easement.

5. The easement should provide for access to the National Forest via permit.

The draft easement does not provide for any access east of Highway 1. In fact, the easement expressly prohibits any public access in this area.⁸⁷ This is a missed opportunity considering the proximity of the Hearst Ranch to Los Padres National Forest and the Silver Peak Wilderness Area, located directly up the coast from the Hearst Ranch.

The Silver Peak Wilderness Area includes the world's southernmost stand of redwoods and other rare species. Access to the wilderness is restricted by the Hearst Ranch to the south and Fort Hunter-Liggett to the east. Thus, additional access ways to these public lands are highly desirable. The historic Mission San Antonio Trail, for example, was used by Native Americans for thousands of years before the Spanish documented the

⁸⁵ See *State Parks Public Access Conservation Easement*, Exhibit D-1A through D-1C – Coastal Trail Aerial Map Set (showing the location of the Coastal Trail alignment in relation to the Highway 1 alignment).

⁸⁶ See *CalTrans Scenic Conservation Easement* § 3(a)(ii) (“Public access shall be restricted as follows: (A) access during daytime hours only (with access beginning no earlier than ½ hour after sunrise and ending no later than ½ hour before sunset)”).

⁸⁷ See *East Side Conservation Easement* § 14(a) (“Grantor's [Hearst's] retained rights include...the right to exclude any member of the public from trespassing on the Easement Area.”).

September 10, 2004



State Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612

Re: Hearst Ranch (Item 20, September 15, 2004)

Dear Chair Morabito and Honorable Board Members:

This letter is submitted by the Environmental Defense Center (“EDC”), a nonprofit public interest environmental law firm, on behalf of our client Friends of the RanchLand, and in support of the concerns expressed by dozens of conservation organizations throughout the State. As we see it, **the proposed Hearst Ranch conservation deal presents the State of California with a tremendous opportunity, and yet, as proposed, creates an adverse precedent in conservation planning and a loss of public access and enjoyment of the incredible Central Coast of California.**

On September 15, 2004, your board will consider authorizing the disbursement of \$34,500,000 to the Wildlife Conservation Board (“WCB”), as part of a series of conveyances designed to conserve the Hearst Ranch both east and west of Highway 1. Last month, the WCB approved this same transaction with conditions. In doing so, the WCB focused on the proposed “East Side Conservation Easement. Although the WCB imposed some conditions on the deal, **we continue to have serious concerns about the proposal, and we therefore urge the Conservancy to further condition the project and direct staff to implement the following recommendations:**

- *Protect and enhance public coastal access by requiring **State** development and approval of a Public Access Plan, through a public process, that retains historic access and provides for low-cost accommodations;*
- *Provide direct State enforcement of the easements by including the State as a third party beneficiary; and*
- *Ensure protection of Conservation Values by requiring public review and State approval of the Baseline Conditions Report, Management Plan and Monitoring Protocol; clarifying that local and state planning and resource agencies retain full discretionary authority over development plans and agricultural conversions, and prohibiting oil and gas development, mining, and exportation of water supplies that are critical to the ecology of the Ranch.*

These issues are more fully discussed below, along with a description of the deficiencies in the documents as currently proposed.

Many of our concerns are shared by the California Coastal Commission (“CCC”), the California Legislative Analyst’s Office (“LAO”) and The Nature Conservancy (“TNC”). These concerns focus on loss of public access, lack of adequate resource protection and weak State involvement in management and enforcement. **According to TNC, the proposed deal “is significantly weaker than other easements...and would set a poor precedent and will likely result in a weakening of the standards and effectiveness of conservation easements funded by the state.”**¹

In addition, the LAO and State Department of General Services (“DGS”) question the validity of the public appraisal summary, suggesting that the appraisal more than doubles the actual value of the transaction and does not meet DGS and WCB standards.²

The LAO also recommends that the resource protections in the Conservation Easement should be strengthened, the Conservation Easement should include specific standards for the Management Plan, the Baseline Conditions Report and Monitoring Protocol should be made available for public review, the Audit Committee should convene more frequently and its results should be made public, and more time should be allowed to address these problems.³

In addition to fixing these deficiencies in the proposal, the State must critically analyze the value of this proposal. For example, the Hearst Corporation proposes to sell an 80,000 acre agricultural easement. This easement is offered in exchange for the right to build 27 non-agriculturally related luxury homes. However, as noted in the California Coastal Commission report to the WCB, development of these homes and the associated subdivision of agriculturally-zoned land not only violates state and local coastal policies, but such development would already trigger the requirement for an agricultural easement over the remainder of the Ranch. *Therefore, there is no need to pay for the easement.*

Second, the proposal vastly inflates the development rights on the Ranch by relying on certificates of compliance that infer little or no actual rights to develop. As noted in the Coastal Commission’s analysis, development on these lots is heavily constrained by the agricultural zoning as well as other health, safety, geological, scenic and environmental constraints. In addition, the passage of SB 497 would severely hamper any attempt to develop these lots. *The State should not pay for development rights that do not necessarily exist.*

Third, the scenic easement is allegedly for the purpose of buying development rights west of the highway, with the exception of the 100-room hotel at Old San Simeon Village. However, the Coastal Commission has already determined that, except for the possibility of a hotel at Old San Simeon Village, the rest of the Ranch west of the Highway is not developable under the Coastal

¹ See TNC letter to The Honorable Byron Sher, August 19, 2004, Analysis at p. 1.

² See letter from Hadley Johnson, Deputy Legislative Analyst to Sen. Wesley Chesbro, dated August 3, 2004, p. 2; memorandum from DGS-Real Estate Services Division to Dick Wayman, State Coastal Conservancy, dated August 11, 2004.

³ *Id.* at pp. 4-6.

Act.⁴ Even the area at Old San Simeon Village may not be developable due to scenic, biological and infrastructure (e.g. water and highway capacity) impacts.⁵ *There is no reason to pay for development rights that do not exist.*

Fourth, the deal will actually **reduce** public access to the coast. Hearst proposes to retain private ownership of the areas that are most important for public access (San Simeon Point, Pico Cove and Ragged Point) and impose severe restrictions that will actually reduce existing and historic public access. Although a Coastal Trail is proposed, the location has not been determined and may not be desirable to the public. *There is no reason to pay for a Coastal Trail that may not be viable, or to pay for a loss in public access at popular hiking and coastal destinations.*

Accordingly, the Conservancy must require certain changes to the documents to ensure a valid public benefit and expenditure of State funds.

The remainder of this letter will address the project's inconsistencies with the Coastal Conservancy's Project Selection Criteria and Guidelines, a Summary of Recommendations, and finally, a detailed analysis of the public access, enforcement and resource protection aspects of the proposal.

**The Project is Inconsistent with the Coastal Conservancy's
Project Selection Criteria and Guidelines.**

As stated in the staff report, the proposed project must conform to the Coastal Conservancy's Project Selection Criteria and Guidelines. For the reasons set forth below, the project cannot be approved because it is inconsistent with the Conservancy's enabling legislation and the purposes of the funding sources, and due to the substantial public controversy surrounding the proposal.

1. The Project is Inconsistent with the Conservancy's Enabling Legislation.

First, the project is inconsistent with the Coastal Conservancy's legislative authority to "assure that significant coastal resource sites shall be reserved for *public* use and enjoyment."⁶ In addition, the project is inconsistent with the legislature's clearly stated intent that "it is the policy of the state that the right of the public to access and enjoyment of the coastal resources should be effectively guaranteed" and that "the State Coastal Conservancy have a principal role in the implementation of a system of public accessways to and along the state's coastline."⁷ As discussed in greater detail below and in the Coastal Commission's letter dated September 9, 2004, the proposed project would **reduce**, not reserve, public use and enjoyment of the coast.

Second, the enabling legislation requires the Conservancy to cooperate with the Coastal Commission and other agencies.⁸ We agree with the findings of the Coastal Commission that

⁴ See *Coastal Commission Revised Findings for the North Coast Area Plan Update, San Luis Obispo County Local Coastal Program, Major Amendment No. 1-97.*

⁵ See *CCC Revised Findings for the NCAP Update, Appendix A, Suggested Modification 79.*

⁶ Cal. Public Resources Code §31350, emphasis added.

⁷ Cal. Public Resources Code §31400.

⁸ See Cal. Public Resources Code §31351(a).

this proposal would violate key provisions of the Coastal Act that protect public access, environmentally sensitive habitats, views and agricultural resources.⁹

Third, the proposal is inconsistent with the requirement that the State shall protect and restore lands that have “poor lot layouts” that “are adversely affecting coastal resources or impeding orderly development.”¹⁰ In this case, part of the purpose of the project is to retire certificates of compliance that establish lots that are poorly laid out and that adversely affect coastal resources and impede orderly development. However, there is no guarantee that these lots will be retired. According to the proposal, the certificates will only be retired if Hearst receives approval for development at sites that it unilaterally selects. If this development is not approved (and it very well may not be approved, given potential inconsistencies with the California Coastal Act¹¹), Hearst would retain the certificates and could apply to develop anywhere on the Ranch.

Finally, the project is also inconsistent with the Conservancy’s enabling legislative mandate to protect coastal agricultural lands in order to prevent them from being lost to non-agricultural uses.¹² In this case, Hearst would be allowed to convert hundreds of acres to development.

The project cannot be approved unless changes are made to ensure consistent with the Conservancy’s enabling legislation.

2. The Project is Inconsistent with the Funding Sources.

In addition to conferring adequate public benefit, the transaction must be consistent with the purposes of Propositions 12, 40, 50 and 117. Proposition 12 funds may be used “*only for parks and resources improvement*.”¹³ Although the staff report does not identify which section of Proposition 12 is being used to fund this project, it should be noted that this measure prioritizes public access as well as preservation of natural resources.¹⁴ In addition, the Act provides for appropriation of funds to the Wildlife Conservation Board for the acquisition, development, rehabilitation, restoration and protection of lands protecting fish, wildlife and their habitats.¹⁵

Proposition 40, the “Watershed, Clean Beaches and Water Quality Act of 2002,” is intended to fund “*water quality, clean beaches, and watershed protection projects*.”¹⁶

The purpose of Proposition 50 is to:

⁹ See Coastal Commission comments to the Wildlife Conservation Board regarding the Hearst Ranch Conservation Plan, incorporated herein by reference.

¹⁰ Cal. Public Resources Code §§31052, 31200 et seq.

¹¹ See Coastal Commission comments to the Wildlife Conservation Board.

¹² Cal. Public Resources Code §§31051, 31150.

¹³ Cal. Public Resources Code §5096.310 et seq., “Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000.”

¹⁴ *Id.*, see subsections (a), (i).

¹⁵ Cal. Public Resources Code §5096.350.

¹⁶ Cal. Public Resources Code §30902 et seq.

*Protect, restore, and acquire beaches and coastal uplands, wetlands, and watershed lands along the coast...to protect the quality of drinking water, to keep beaches and coastal waters safe from water pollution, and to provide the wildlife and plant habitat and riparian and wetlands areas needed to support functioning coastal...ecosystems for the benefit of the people of California.*¹⁷

Finally, Proposition 117 funds are to be used for the purposes of acquiring, enhancing and restoring habitats (including native oak woodlands, habitat for rare, endangered, threatened and fully protected species, wetlands, habitat for anadromous fish, and riparian areas).¹⁸

In this case, the project would reserve substantial private rights with little detail regarding protection, enhancement or restoration of natural resources and habitats.¹⁹ As noted below and in the Coastal Commission's letter to the Wildlife Conservation Board, the project may actually adversely affect important coastal habitats.

In sum, the amount of development allowed under this easement, and its emphasis on Hearst's private gain over public benefit, may disqualify this transaction from complying with the purposes cited in the funding measures as well as the Coastal Conservancy's own legal mandates.

3. Substantial Public Controversy Remains.

For the reasons cited herein, **virtually every local and state-wide environmental organization has registered objections to the deal as proposed.**²⁰ However, we also support permanent preservation of the Ranch, and so we have worked collaboratively to develop the following recommendations. These recommendations are intended to ensure a deal that provides a commensurate public benefit for the expenditure of public funds, and protects valuable coastal resources while retaining public access to one of the most important coastal destinations in the State.

Summary of Recommendations

1. Public Access

Public Access Plan: The current proposal would drastically restrict existing public access, especially to the Ranch lands west of Highway 1. To avoid this loss, the State should retain full

¹⁷ See Cal. Water Code § 79501(h). Specifically, Proposition 50 states that the purpose of the \$120 million available to the SCC is "coastal watershed protection." Cal. Water Code § 79570(a). The \$750 million available to the WCB is for the "acquisition, protection, and restoration of coastal wetlands, upland areas adjacent to coastal wetlands and coastal watershed lands." See Cal. Water Code § 79572(a).

¹⁸ Cal. Fish and Game Code §2786 et seq., the "Habitat Conservation Fund" of the "California Wildlife Protection Act of 1990."

¹⁹ The Baseline Conditions Report and Management Plan are not available for public review. As discussed below, the draft Monitoring Protocol does not contain information sufficient to determine whether the natural resources will be adequately conserved, let alone enhanced or restored.

²⁰ See Exhibit 9 to the staff report.

discretion to develop the Public Access Plan for the Ranch, unencumbered by Hearst's proposed Access Parameters or veto authority. At a minimum, the plan should include the following considerations:

- For all areas west of Highway 1, the restrictions on public access (e.g., numbers of people, days and times of use, requirement for guided tours) should be eliminated pending a public planning process;
- Access should be provided consistent with protection of natural resources through trail improvements, signage, docent presence, and other means;
- The Coastal Trail alignment shall be determined by State Parks and the Coastal Conservancy, through a public process;
- Parking areas, restrooms, and other necessary and appropriate access support facilities west of the Highway should be allowed so long as they are low-impact and sited outside the Highway 1 viewshed "where feasible;" and
- The State should require a study of the feasibility of preserving historic access along the San Carpoforo Creek, inland to the Polar Star Mine, and on through the Windy Point Gap to the Baldwin Ranch in Monterey County, then over the Coast Ridge Divide to San Antonio Mission.

State Ownership: If feasible, the State should acquire ownership of the lands west of Highway 1. At a minimum, San Simeon Point and Cove should be owned and managed by the State as part of William Randolph Hearst State Park. If such acquisition is not feasible, a strong easement protecting public access is all the more critical. In the event of a default, any State-owned property should be transferred to another public entity.

Junge Ranch: The option to acquire the Junge Ranch through a tax credit should be extended if necessary. Otherwise, low-cost visitor-serving overnight accommodations should be provided at Old San Simeon Village.

2. Protection of Conservation Values

Resource Management:

- The Management Plan should be approved by WCB and DFG prior to funding (similar to the requirement for State approval of the Baseline Conditions Report and Monitoring Protocols). The Interim Management Plan should include protections for natural resources, including riparian areas, wetlands and environmentally sensitive habitats.
- The public should be able to review the Baseline Conditions Report, Management Plan and Monitoring Protocols prior to funding.
- The west side easements should include monitoring plans.

Planning and Permitting Authority: The documents should clarify that they do not affect the discretion or authority of relevant land use and resource protection agencies (e.g., County of San Luis Obispo, California Coastal Commission, CDFG, RWQCB, etc). To ensure this authority, the documents should also be modified to:

- Delete the presumption that ranching activities and development of a new hotel at Old San Simeon Village will not impair conservation values;

- Provide land use agencies with the ability to require true clustering of the home-sites, in order to avoid fragmentation of habitat and agricultural resources; eliminate the “Fallback Alternative” that allows development anywhere on the Ranch;
- Require retirement of the certificates of compliance prior to funding; and
- Ensure that any conversion of grazing areas to cultivated agriculture is sited appropriately and consolidated to avoid fragmentation of conservation values.

Resource Extraction:

- Eliminate provisions for oil and gas production, mining, and water transfers.

3. Enforcement

The easement documents are generally enforceable by the easement holders, which results in self-monitoring. The State can only indirectly enforce the terms of the easement, after the easement holders fail to do so. The easements should be modified to:

- Provide for direct enforcement by the State, as co-holder of the easements or through third party beneficiary status. This authority should be applied to the appropriate State agencies (e.g., State Coastal Conservancy, Wildlife Conservation Board, Department of Parks and Recreation, and Department of Fish and Game);
- Allow the State to determine the frequency and timing of the monitoring, and the selection of personnel required to monitor effectively.

The above recommendations are supported by the following discussion and analysis.

Public Access

While the proposed agreement between the State and the Hearst Corporation purports to provide for public access, it does not provide sufficient public benefit, and in fact *reduces* existing public access in important coastal areas. The Coastal Commission has provided a very thorough analysis of the many problems with the current proposal.²¹ We support the Commission’s analysis.

At the hearing on September 15, we will also present the Conservancy with evidence collected, in a very short period of time over the last couple weeks, regarding the extensive public use and enjoyment of Hearst Ranch lands. It is imperative that the State not enter into a deal that will rob the public of its right to continue its use and enjoyment of the Hearst Ranch coast and beaches.

1. The State should develop the Public Access Plan through a public process.

The proposal provides for development of a Public Access Plan, but such plan must be approved by Hearst and must be consistent with the Access Parameters already identified by Hearst.²² If

²¹ See letter from Peter Douglas, Executive Director of the California Coastal Commission, to the State Coastal Conservancy, dated Sept. 9, 2004.

²² See *State Parks Public Access Conservation Easement* § 2 (“Prior to Grantee [CDPR] allowing Public Access or installing any Public Access improvements over or on any part of the Public Access Easement Area, Grantee shall have completed a Public Access Plan consistent with the Access Parameters.”); *State Parks Public Access*

approved, this proposal would drastically curtail public access to the most popular coastal areas on the Ranch.

For example, at San Simeon Point, the proposal would limit public access to 300 days per year, for up to 100 people per day.²³ Thus, for two months out of the year, the Hearst Corporation could completely restrict access to areas the public has enjoyed for generations. Furthermore, nothing in the proposed easement would prevent private guests at the proposed Hearst Inn at Old San Simeon Village from filling the 100 slots for public access, to the exclusion of the general public. Nor would the public be able to witness a sunset from this area, as access to San Simeon Point would be limited to ½ hour after sunrise to ½ hour *before* sunset.²⁴ Furthermore, the document allows access at San Simeon Point to be restricted to guided tours, preventing the public from seeking solitude and exploring San Simeon Point trails on their own.²⁵

Public access at Ragged Point and Pico Cove is even more restricted. At these areas, the draft easement would limit trail access to 20 people on a guided tour every three months, for a total of only 80 people per year.²⁶

Worse, until these plans are finalized and implemented, the easement specifically prohibits *any* public access to these areas.²⁷ The easement fails to specify a date for completion of these access plans.²⁸ And the public access parameters, on which these Public Access Plans supposedly rely,

Conservation Easement, Exhibit D – Access Parameters; Old San Simeon Village Conservation Easement Grant to American Land Conservancy, Exhibit F – Access Parameters.

²³ See *State Parks Public Access Conservation Easement, Exhibit D – Access Parameters*, pp. 1-3 (“controlled public access shall be allowed as set forth in the Public Access Plan consistent with the following parameters: ... Controlled Public Access to accommodate up to 100 people per day” and “Public access shall be not less than 300 days per year”).

²⁴ See *State Parks Public Access Conservation Easement, Exhibit D – Access Parameters*, p. 2 (“Access during daytime hours only (with access beginning no earlier than ½ hour after sunrise and ending no later than ½ hour before sunset)”), and *Exhibit D-2 San Simeon Point Recommended Access Plan*, p.3 (“San Simeon Point should be available to the public no less than 300 days a year to allow other necessary uses to take place on the property (maintenance, grazing, and resource protection/restoration, Hearst operations).”)

²⁵ See *State Parks Public Access Conservation Easement, Exhibit D – Access Parameters*, p. 1 (“The San Simeon Point Public Access Plan shall include a proposal for the type of controlled Public Access including recommendations for whether controlled access is supervised or guided, etc...”).

²⁶ See *State Parks Public Access Conservation Easement, Exhibit D – Access Parameters*, p. 3 (“Twenty-person guided walking tours will be held quarterly on Sundays”).

²⁷ See *State Parks Public Access Conservation Easement* § 2 (“Prior to Grantee [CDPR] allowing Public Access or installing any Public Access improvements over or on any part of the Public Access Easement Area, Grantee shall have completed a Public Access Plan consistent with the Access Parameters.”).

²⁸ For example, see *OSSV Conservation Easement* § 4(c) (“Within ____ [time period] after the Effective Date, Grantee shall prepare for Grantor’s review and approval a comprehensive Public Access Plan consistent with the Access Parameters.”).

are not even complete and instead “are subject to further refinement.”²⁹ Finally, the Hearst Corporation has ultimate veto authority on the final Public Access Plans.³⁰

For each of these areas, the State should develop a Public Access Plan, through a public process, that retains public trail and beach access throughout the year, without limitations on the numbers of people per day or the requirement for guided tours. The access should include trail improvements to protect natural resources. Restrictions prohibiting motorized, bicycle, and equestrian access would further protect the resources. Finally, the trails to the bluffs and beaches should be linked to the Coastal Trail at reasonable intervals and should provide beach access where feasible.

The Public Access Plan process should also define the location and use of the proposed Coastal Trail through the Ranch. The Coastal Trail is an ongoing effort to build a network of trails along the entire California coastline. The Hearst Ranch, occupying 18 miles of coastline, is an integral part of this vision. The draft easement accommodates the passage of the Coastal Trail through the Hearst Ranch. However, as envisioned in the easement, the Coastal Trail is too close to Highway 1, and allows a private corporation to place unreasonable time restrictions on its use.

First, the proposed Coastal Trail would be located in close proximity to Highway 1.³¹ This would negatively impact the hiking experience and is clearly designed to accommodate the Hearst Corporation’s desire to keep the public as far away as possible from their private inholdings. Second, the public is restricted to using the Coastal Trail from ½ hour after sunrise to ½ hour before sunset.³²

The Coastal Trail alignment shall be determined by State Parks and the Coastal Conservancy, through a public process. The Coastal Trail alignment should be relocated as close to the coast as feasible, accounting for public safety and protection of sensitive resources. The time restrictions should be eliminated or modified to all reasonable access and enjoyment of the coast. Parking areas, restrooms, and other necessary and appropriate access support facilities west of the Highway should be allowed so long as they are low-impact and sited outside the Highway 1 viewshed where feasible.

Finally, the transaction should provide continued public use of the historic San Carpoforo Trail. As currently written, the draft easement does not provide for any access east of Highway 1. In

²⁹ See *State Parks Public Access Conservation Easement* § 2 (“Grantee [CDPR] shall manage and control Public Access in accordance with the ‘Access Parameters’ attached hereto as ‘Exhibit D’”). Exhibit D, however, states that “Access Parameters and Recommended Access Plans are subject to further refinement, including more specification of limits on Public Access buildings, structures, and facilities.”). See also *OSSV Conservation Easement*, Exhibit F – Access Parameters (“The Parties are preparing more detailed Access Parameters and a Recommended Access Plan.”).

³⁰ See *State Parks Public Access Conservation Easement* § 2 (“The public access plan will be subject to Grantor’s [Hearst] approval based upon a determination that the Public Access Plan is consistent with the Access Parameters.”).

³¹ See *State Parks Public Access Conservation Easement*, Exhibit D-1A through D-1C – Coastal Trail Aerial Map Set (showing the location of the Coastal Trail alignment in relation to the Highway 1 alignment).

³² See *CalTrans Scenic Conservation Easement* § 3(a)(ii) (“Public access shall be restricted as follows: (A) access during daytime hours only (with access beginning no earlier than ½ hour after sunrise and ending no later than ½ hour before sunset)”).

fact, the easement expressly prohibits any public access in this area.³³ This is a missed opportunity considering the proximity of the Hearst Ranch to Los Padres National Forest and the Silver Peak Wilderness Area, located directly up the coast from the Hearst Ranch.

The Silver Peak Wilderness Area includes the world's southernmost stand of redwoods and other rare species. Access to the wilderness is restricted by the Hearst Ranch to the south and Fort Hunter-Liggett to the east. Thus, additional access ways to these public lands are highly desirable. The historic Mission San Antonio Trail, for example, was used by Native Americans for thousands of years before the Spanish documented the route in 1769. This trail, which ascends the San Carpoforo drainage, still enjoys frequent public use.

Such access can be accommodated without infringement on public views, without negative impacts on sensitive habitats, and without encroachment on potential private homesites and agricultural operations.

The plan should be revised to include the historic public trail on the east side of Highway 1. At a minimum, the plan should provide for a study of the feasibility of preserving this access and consider appropriate management tools (e.g., requirement of a permit system).

For all of these trails, we support a plan that includes protection of natural resources and habitats. Low-impact improvements such as interpretive signs, clear trail delineations (including roping if necessary), and a docent program can help ensure resource protection while allowing continued public access. Examples abound, such as Yosemite National Park, and private improvements made to public access to the Monarch Butterfly Preserve at Ellwood in Santa Barbara County.

The plan should recommend measures to ensure that continued public trail and beach access is consistent with natural resource protection.

2. The State should own and control as much land as possible west of Highway 1.

The Hearst Ranch encompasses 1,656 acres of coastline west of Highway 1. However, under the proposed agreement, only 949 acres would be transferred outright – in fee – to the State Department of Parks and Recreation. The Hearst Corporation would retain the remainder of the land, meaning that nearly 43% of the Hearst Ranch west of Highway 1 will remain in private ownership. These retained areas are where the existing and historic access is concentrated, at San Simeon Point, Ragged Point, and Pico Cove.

Private beaches and private coastal in-holdings are contrary to the State's public access goals as expressed in the State Constitution and the Coastal Act and contrary to the public's expectations for this deal – that all the land west of Highway 1 should be in the public domain. Further, we question the State paying such considerable sums of money for coastal land and conservation easements, only to have wealthy landowners with estates on the inland side of Highway 1 retain beaches and bluffs on the west side for their private use.

³³ See *East Side Conservation Easement* § 14(a) ("Grantor's [Hearst's] retained rights include...the right to exclude any member of the public from trespassing on the Easement Area.").

The public is used to access to the Ranch lands west of Highway 1, and would be adversely affected by the restrictions proposed by Hearst (see discussion below).

To ensure continued and enhanced public access, all lands west of Highway 1 should be deeded to the State in fee. If this transfer is not feasible, then the State should at least acquire ownership of San Simeon Point and Cove by adding these areas to the existing adjacent William Randolph Hearst State Park. If State acquisition is not feasible, then the easements must be modified to ensure adequate public planning, management and monitoring of public access.

In addition, any transfer or default of the public access easement by the State Department of Parks and Recreation should be in favor of another public entity to ensure adequate oversight and accountability. Currently, the easement allows DPR to transfer the easement to a third party, which could compromise public access in these areas.³⁴

3. The option to include the Junge Ranch should be extended in order to provide for low-cost public camping opportunities.

Under the draft easement, the Junge Ranch would provide the only opportunity for public camping.³⁵ However, this transfer would only occur if the Hearst Corporation receives a tax credit, *by the end of 2004*, under the Natural Heritage Preservation Tax Credit Act of 2000.³⁶ If the tax credit is not approved this year, the Junge Ranch will be withdrawn from the deal.

*To ensure compliance with the Coastal Act requirement for affordable visitor-serving accommodations in the coastal zone, the easement should be revised to retain the Junge Ranch option so that the transfer may occur should funding be approved in the future. In the alternative, low-cost camping facilities should be required at Old San Simeon.*³⁷

State Enforcement and Oversight

The conservation of the Hearst Ranch is one of the highest-profile land deals of all time. A conservation agreement of such magnitude requires tremendous public oversight to ensure that the terms of the agreement are upheld in perpetuity. However, the draft easement contains minimal provisions for public oversight, which may lead to conflicts over monitoring and enforcement in the future.

³⁴ See *State Parks Public Access Conservation Easement § 7(a) – Grantee Transfer of Public Access Easement*, p. 5 (“Grantee may assign its interest, rights and obligations under this Conservation Easement...”).

³⁵ See *Gift Deed for Conveyance of Restricted Fee Interest in Public Ownership Lands to State Parks*, Exhibit A – Legal Description of the Property (“The conservation easement over the Junge West Side Conservation Easement Area would have similar restrictions on use as applied to the Public Lands Conservation Areas of the West Side Easement (TEA funding) except that walk in, primitive campsites would be allowed outside of the Highway One viewshed.”).

³⁶ See *Overall Transaction Summary*, p. 6; see also *East Side Easement § A* (“If the Junge Ranch is not included in initial closing because of inability or delay in getting tax credits, Junge Ranch will be removed from the legal description of the Ranch”).

³⁷ See *CCC Revised Findings for the NCAP Update, Appendix A, Suggested Modification 97*.

1. The State should be a direct party or third party beneficiary to the easement to provide for public enforcement.

The State is specifically excluded as a party to the draft eastside easement.³⁸ Since the State is not a party to the easement, the State on behalf of the general public will not have any direct enforcement of the terms of the easement. Instead, the State has only indirect enforcement powers that extend only to the easement holder, not the Hearst Corporation.³⁹

The easement should be modified to designate the State as either a direct party to the easement, or as a third party beneficiary, to allow direct enforcement action against the Hearst Corporation in the event of a breach.

2. Amendments to the easement language should be subject to public review and comment.

The Hearst Corporation may amend the easement with the written consent of the Grantee (ALC/CRT) and the WCB.⁴⁰ However, the Grant Agreement, which gives the WCB the power to approve any amendment, does not require any public review or comment of such amendments prior to WCB approval. For the public to have faith in the perpetual duration of this easement, state agencies should commit to a public process prior to approval of any amendments.

The easement should be modified to allow agencies to approve an amendment to the easement only after a public hearing and a reasonable public comment period.

3. Easement language is weak, vague, and often discretionary, which may lead to difficulties in enforcement in the future.

The easement documents are peppered with unenforceable terminology, such as “reasonable.” The LAO agrees, stating in a recent report that

we are concerned that the terms of the easement do not provide an adequate level of specificity to protect these resources.... In the future, without specificity regarding the protection of the natural resources, the parties to the agreement may find themselves in conflict over the level of protection that is appropriate.⁴¹

³⁸ See *East Side Easement*, § K (“WCB is not a party to this Conservation Easement and Grantor is not granting any interest or rights to WCB by its conveyance of this Conservation Easement to Grantee”).

³⁹ See generally *East Side Easement*, wherein the easement holder has the sole authority to enforce the easement against Hearst. If ALC/CRT fail to enforce the terms of the easement, then and only then may the State step in and undertake enforcement action under the Grant Agreement. However, the State’s enforcement powers only extend to ALC/CRT, not to the Hearst Corporation. See *WCB Grant Agreement* § 3.1 (“Grantee [ALC/CRT] shall manage, maintain, enforce and defend the Easement in a manner that is consistent with this Agreement.”)

⁴⁰ See *East Side Easement* § 20 – Amendment of Conservation Easement (“This Conservation Easement may be amended only with the written consent of Grantee [ALC/CRT] and Grantor [Hearst].”) See also *WCB Grant Agreement* § 3.1 (“Grantee [ALC/CRT] shall not consent to any amendment of the Easement without the prior written consent of Grantor [WCB].”).

⁴¹ See Letter from Hadley Johnson, Deputy Legislative Analyst to Senator Wesley Chesbro, Chair of the Joint Legislative Budget Committee, dated August 3, 2004, pp. 2-3.

In general, the easement language should be strengthened and specified to set forth clear standards for protection of Ranch resources.

Protection of Conservation Values

1. Resource Management

The Wildlife Conservation Board approved a condition requiring WCB and DFG approval of the Baseline Conditions Report and Monitoring Protocol. We request that such approvals provide for public review and comment. In addition, it is imperative that the State agencies also approve the Management Plan, which is the heart and soul of the means by which Conservation Values will be protected. The Management Plan also provides the basis for developing the Monitoring Protocol.

- a. The Baseline Conditions Report is not finished and must be made available to the public before agency approval.

The Baseline Conditions Report consists of maps, photos, and other documents that provide an accurate representation of the existing condition of the Ranch. In particular, it includes detailed accounts of the type, location, extent, and condition of existing structures, other improvements, plant and animal distributions, and sensitive resources. The baseline report is necessary to ensure adequate monitoring and enforcement of easement terms.

Despite the important role that the baseline report plays in monitoring and enforcing the easement, the baseline report is not completed and has not been released to the public. Without this information, it is impossible to determine whether the management practices and monitoring protocol are adequate to protect the resources on site. It also makes it difficult to assess the appropriateness of the proposed development locations.

While the WCB must approve the baseline report before funds are allocated,⁴² it is unclear whether this approval must take place during a public hearing, and whether this critical document will be available to the public.

During its August hearing, the WCB added a condition requiring approval of the baseline report by the Department of Fish and Game ("DFG"). We support this condition, but note that it falls far short of the public's need to review and comment on the baseline report *before* agency approval. Rather, this condition requires approval only at the staff level, without any opportunity for public review and/or comment. *The easement should be modified to require SCC approval of the baseline report after opportunity for public review and comment.*

- b. The Management Plan is not finished and must be made available to the public before SCC approval.

⁴² See *WCB Grant Agreement* § 2.2 ("Grantor's obligation to deposit the Grant Funds into escrow is conditioned upon and subject to satisfaction of all of the following conditions precedent: ... Grantor [WCB] shall have reviewed and approved the Baseline Conditions Report described in Recital F of the Easement.").

As noted by the recent LAO report, the easement lacks specific, enforceable policies and standards to ensure protection of Ranch resources. The management plan, which will supposedly contain these standards and is the core of any conservation easement, will not be in place once the easement is signed. Instead, the easement allows the management plan to be prepared by Hearst up to a full year after this deal is funded, and is not subject to public review.

First, the easement allows the Hearst Corporation to draft its own Management Plan.⁴³ This plan need not be approved by *any* State agency,⁴⁴ but rather need only be approved by the American Lands Conservancy (“ALC”), a private corporation with no public accountability or oversight. The easement requires ALC to approve the Management Plan so long as it is consistent with the conservation easement.⁴⁵ However, as stated above, the easement contains very few specific policies and standards that would create an inconsistency with the Management Plan. And if Hearst were to dispute ALC’s inconsistency determination, then ALC would have to either consult with a Hearst-approved expert or be subject to a Hearst lawsuit and be liable for Hearst’s attorney fees.⁴⁶

Second, the Management Plan need not be prepared until a full year after the Grant Agreement is signed and the Hearst Corporation cashes its \$34.5 million check from WCB. This delay has two negative repercussions: (1) the State agencies, as well as the public, are not informed about the specific protections that their money is buying, and (2) during the year between the signing of the Grant Agreement and the approval of the Management Plan, there are minimal resource protections in place. In fact, the only resource protections in place before the Management Plan is approved is a two-page document titled “Interim Management Criteria” that only addresses grazing impacts to rangeland health.⁴⁷

The Management Plan should be completed and reviewed by the DFG and available to the public for comment in advance of final approval. The Interim Management Criteria should be strengthened to include all activities on the Ranch.

c. Monitoring is weak and must be strengthened to ensure compliance with easement terms.

The Grant Agreement requires that ALC/CRT conduct periodic monitoring of Hearst’s compliance with the easement terms, and to submit all monitoring reports to WCB.⁴⁸ The public,

⁴³ See *East Side Easement* § 6(c) – Planning and Consultations (“Within one year after the Effective Date, Grantor [Hearst] shall submit a written management plan (“Management Plan”) for Grantee’s [American Land Conservancy] review and approval.”).

⁴⁴ See *WCB Grant Agreement* § 3.8 (“Grantee [ALC] shall make available to Grantor [WCB]...a copy of each management plan or amendment thereof developed pursuant to the Easement, and shall provide Grantor a reasonable opportunity (not less than 45 days) to review and provide comments and suggestions on such plan prior to its approval by Grantee.”). There is no mechanism to ensure that Hearst actually includes WCB’s comments and suggestions into the final Management Plan.

⁴⁵ See *East Side Easement* § 6(c) – Planning and Consultations (“The only basis upon which Grantee [ALC] may refuse to approve the Management Plan shall be Grantee’s determination that the Management Plan is inconsistent with this Conservation Easement.”).

⁴⁶ See *East Side Easement* § 16(b) – Issue Resolution. See also *East Side Easement* § 16(c) – Judicial Enforcement.

⁴⁷ See *East Side Easement, Exhibit E* – Interim Management Criteria

⁴⁸ See *WCB Grant Agreement* § 3.5 (“Grantee shall monitor Landowner’s compliance with the Easement in accordance with the monitoring protocol.... Grantee shall make available to Grantor, for inspection at Grantee’s

however, only receives a Hearst-approved summary of these monitoring reports once per year. *The Grant Agreement should be modified to allow public review of all monitoring reports in full, not just annual summaries thereof.*

Moreover, under the easement the Hearst Corporation wields excessive power over the entire monitoring process. First, Hearst can limit the entry of monitors onto the Ranch to only one four-day time period per year.⁴⁹ This limitation does not provide for adequate monitoring, on a seasonal basis, of an 80,000-acre property. Moreover, the monitors must give Hearst two weeks notice before entering. Perhaps even more problematic, Hearst has veto power over the identity of certain monitors, such as expert biologists and other consultants that play an important role in the monitoring process.⁵⁰

The recently released draft Monitoring Protocol,⁵¹ which details the easement holder's monitoring and enforcement obligations, is also insufficient in that it will not adequately inform agencies and the public. Specific problems include the following:

- 13 of the 16 monitoring standards are specific to rangeland health. Only 2 deal with resource protection.
- Annual monitoring in the fall will preclude or inhibit monitoring for certain things such as: health of wetlands which should be evaluated in the spring; Steelhead which run in the winter; and water quality during winter rains and/or first flush storms. In addition, monitoring for native grasses and grassland habitat should occur in the spring. Streams should be monitored at least twice per year.
- Annual monitoring does not allow for evaluation of seasonal occurrences, changes and issues.
- Monitoring is restricted to certain areas of the Ranch; therefore it is difficult, if not impossible, to determine whether the Conservation Values of the Ranch will be protected.
- The monitoring is still too qualitative, and does not address the directive from the WCB that the Monitoring Protocol must provide the specific performance standards that must be met to avoid impairment of resources. In addition, by having vague measures, the plan will be difficult not only to evaluate compliance, but also to ensure enforcement.
- Requiring the monitors to be approved by the easement holder (ALC, CRT) unnecessarily and inappropriately restricts access to the Ranch by otherwise qualified experts. As described, the monitors would not need to have the specific qualifications necessary for the required tasks.

offices...each monitoring report completed by Grantee under the Easement Monitoring Protocol. Grantee shall also submit annually to Grantor, for public disclosure, a summary monitoring report documenting the occurrence of all monitoring conducted during the preceding twelve-month period and describing and assessing the condition of the Property and the status of Landowner's compliance with the Easement, including the status of any actions taken by Grantee to resolve any compliance issues.").

⁴⁹ See *East Side Easement* § 16(a) – Right of Entry, which states that Authorized Monitors “shall have the right to enter at least annually with two week’s advance notice onto the Easement Area for purposes of monitoring compliance with the terms of this Conservation Easement. Entry shall be by no more than four (4) Authorized Monitors for no more than four (4) days per year for the Easement Area.”

⁵⁰ See *East Side Easement* § 16(a), which defines Authorized Monitors as “Officers, directors and employees of Grantee [ALC/CRT], and Grantee’s contractors approved by Grantor [Hearst] in Grantor’s sole discretion.”

⁵¹ See *WCB Grant Agreement* § 3.5; Exhibit D (draft Monitoring Protocol).

- There is no plan to measure water quality from home sites, planted agricultural areas or grazing lands.
- The proposed five-year frequency for aerial monitoring is too infrequent and may allow significant damage to occur without detection.
- The Monitoring checklist does not consider vegetation clearing other than tree cutting.
- Only owner home sites are to be monitored for compliance with viewshed screening and habitat setbacks.

*The easement should be modified to allow more frequent monitoring of Ranch resources, by appropriate experts approved by the easement holders **and** the State. Monitoring should be geared to evaluate seasonal changes and occurrences, and must cover more of the Ranch. Experts should be selected that are qualified to address specific features, habitats and species. Monitoring should use GIS mapping to determine the size of habitats, on a bi-annual basis. Finally, the Monitoring Protocol should include specific performance standards that can be easily quantified and enforced..*

- d. The audits occur infrequently and may be controlled by the Hearst Corporation.

The easement requires the Hearst Corporation to allow audits of ALC/CRT monitoring and enforcement pursuant to the Audit Policy and Procedures.⁵² However, auditing occurs very infrequently and is heavily influenced by the Hearst Corporation.

First, the audit occurs once only every five years.⁵³ This is an excessive amount of time. *Audits should occur every two years.*

Second, Hearst holds tremendous power and influence over the auditing process. Hearst is one of only four members of the Audit Committee.⁵⁴ This gives Hearst undue influence into the auditing process because the Audit Committee selects auditors “by consensus,” meaning Hearst has veto power over the identity of any auditor.⁵⁵ Hearst wields this veto power over other actions by the Audit Committee, such as inspection of the Ranch.⁵⁶ *The easement should be modified to include Hearst and CRT as ex-officio non-voting members of the Audit Committee.*

The easement holder, CRT, also has a seat on this Audit Committee, putting the easement holder in the position of monitoring its own activities.⁵⁷ Results from this type of self-monitoring will

⁵² See *East Side Easement* § 16(a) – Right of Entry (“In addition, Grantor [Hearst] shall allow access for independent audits of Grantee’s [ALC/CRT] monitoring and enforcement of this Conservation Easement in accordance with the Audit Policy and Procedures.”).

⁵³ See *East Side Easement*, Exhibit I – CRT Audit Policy and Procedures, § F (“Each conservation easement project shall be audited not less frequently than once every five years.”).

⁵⁴ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § B – Audit Committee.

⁵⁵ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § C (“The Audit Committee will select each auditor engaged by CRT to conduct an audit of one or more of CRT’s conservation easement projects. Each such selection shall be made by consensus.”).

⁵⁶ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § G (“The Audit Committee, acting by consensus, may decide that inspection by the Audit Committee of the subject easement property is appropriate to adequately inform the Audit Committee’s review of one or more elements of the audit report.”).

⁵⁷ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § B – Audit Committee.

lack credibility. *The Audit Committee should be modified to include only independent, disinterested third parties.*

Finally, there is no public oversight of the auditing process. While the California Resources Agency holds a seat on the Audit Committee, it must keep confidential all written records of the Audit Committee.⁵⁸ *The full Audit Committee reports should be available for public review.*

2. Planning and Permitting Authority

The documents should be clarified to ensure that they do not affect the discretion or authority of relevant land use and resource protection agencies (e.g., County of San Luis Obispo, California Coastal Commission, CDFG, RWQCB, etc). In their current form, the easements are intended to restrict this authority by incorporating certain presumptions, retaining certificates of compliance throughout the Ranch, proposing specific development and agricultural intensification activities, and allowing a “Fall Back” alternative that would eliminate any hope of clustering development.

For example, the documents contain a presumption that current ranching operations and the development of a hotel and accessory facilities at Old San Simeon Village will not impair conservation values.⁵⁹ In fact, the purpose of the easement is to improve ranching operations to ensure protection, restoration and enhancement of ranching activities.⁶⁰ In addition, the California Coastal Commission found in 1998 that development of a hotel at Old San Simeon Village could affect important natural resources and water supplies.⁶¹

The stated purpose of conservation easements under the California Civil Code is “to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.”⁶² Instead of achieving this purpose, the Hearst Ranch conservation easement reads more like a development agreement, allowing substantial development without sufficient safeguards for the protection of natural resources and scenic viewsheds. The California Coastal Commission has identified numerous inconsistencies with the California Coastal Act and San Luis Obispo County Local Coastal Plan.⁶³

⁵⁸ See *East Side Easement* Exhibit I – CRT Audit Policy and Procedures, § I (“Each audit report and all written records of the deliberations of the Audit Committee shall be treated as confidential business records and shall not be circulated to anyone other than current members of the Audit Committee, the CRT management and staff, and the Board of Directors.”).

⁵⁹ See *East Side Easement* § 14 – Rights Retained by Grantor (“Grantor’s [Hearst’s] present uses in their current locations are deemed to be consistent with the terms of this Conservation Easement”); *OSSV Conservation Easement* § 5 (“No installation, construction, reconstruction, replacement, operation or maintenance of any building, facility or structure of any type shall be allowed to impair Conservation Values; provided, that the development of the OSSV Project, or any integral element thereof, shall not be deemed to impair Conservation Values”); see also *OSSV Conservation Easement* § 1 (“The Parties agree that Grantor’s [Hearst] retention of certain rights specified in this Conservation Easement, including specified agricultural, commercial, and recreational uses, is consistent with the Conservation Purpose.”)

⁶⁰ See *East Side Easement* § 1.

⁶¹ See *Coastal Commission Revised Findings for the North Coast Area Plan Update, San Luis Obispo County Local Coastal Program, Major Amendment No. 1-97*.

⁶² Cal. Civ. Code § 815.1

⁶³ See California Coastal Commission analysis, dated August 5, 2004. As proposed, the easement violates Coastal Act and LCP requirements for public access and protection of agriculture, views, and environmentally sensitive habitats.

a. The easement allows too much development.

During negotiations, the public was led to believe that this conservation easement would restrict development on the Ranch to 27 homesites and one 100-room inn. The fine print of the actual easement allows much more than this, including:

- 27 New Owner Homesites;⁶⁴
- 10 New Ranch Employee Homesites; and⁶⁵
- 5 New Replacement Ranch Employee Homesites; plus an⁶⁶
- Unspecified Number or Amount of:
 - Old San Simeon Village New Employee Housing⁶⁷
 - Accessory Structures & Facilities for New Owner Homesites⁶⁸
 - New/Replacement Incidental Ranch Facilities⁶⁹
 - Enlargements/Replacements of Non-Residential Structures⁷⁰
 - Enlargements/Replacements of Existing Owner Dwellings and Accessory Structures⁷¹
 - Replacement/Enlargement of Existing Aircraft Runway and Associated Structures⁷²
 - New/Relocated Roads, Paving of Existing Roads⁷³
 - Enlargement/Replacement of Existing Ranch Employee Housing⁷⁴
 - Replacement of Warehouses and other Existing OSSV Structures;⁷⁵ and
- Old San Simeon Village Project, which includes the following in a 39-acre development envelope:⁷⁶
 - Unlimited Reuse of Existing Structures, such as warehouses;
 - Unlimited Amount of New Structures;
 - 100-Room Inn;
 - Unlimited Roads and Parking; and

⁶⁴ See *East Side Easement* § 3(d) – New Owner Homesites

⁶⁵ See *East Side Easement* § 9(c) – New Employee Housing to Support Ranch Uses

⁶⁶ See *East Side Easement* § 9(c) – New Employee Housing to Support Ranch Uses

⁶⁷ See *East Side Easement* § 3(e) (“Employee housing units to support a small inn of no more than 100 new units and visitor serving uses to be located in OSSV...will be limited to the number of units, if any, required by any regulatory agency as a condition of approval of development of any allowable OSSV Uses.”).

⁶⁸ See *East Side Easement* § 3(d) – New Owner Homesites

⁶⁹ See *East Side Easement* § 3(a) (“ ‘Incidental Ranch Facilities’ consist of fences, squeezes, loading chutes, holding fields, corrals, utilities (including gas, electrical and telecommunications), sewage disposal facilities and systems, and water distribution and irrigation facilities”); see also *CalTrans Scenic Conservation Easement* § 5(b) and *Old San Simeon Village Conservation Easement* § 5(b).

⁷⁰ See *East Side Easement* § 3(b) (“Grantor may enlarge (by not more than a cumulative fifty percent in size per structure), repair and replace, with a like facility, any non-residential building and any other non-residential structure or facility...without having to seek permission from Grantee.... Before any other construction or enlargement greater than a cumulative fifty percent in size..., Grantor must first obtain the written consent of Grantee.”).

⁷¹ See *East Side Easement* § 3(c) – Existing Owner Dwellings and Accessory Structures

⁷² See *East Side Easement* § 3(g) – Aircraft Runway and Associated Structures

⁷³ See *East Side Easement* § 8 – Roads; see also *CalTrans Scenic Conservation Easement* § 10 – Road Construction.

⁷⁴ See *East Side Easement* § 9(b) – Existing Employee Housing to Support Ranch Uses

⁷⁵ See *Old San Simeon Village Conservation Easement* § 5(a) – Existing Structures

⁷⁶ See *Old San Simeon Village Conservation Easement* § 5(d) – OSSV Historic Conservation Project

○ Support Utility Infrastructure.⁷⁷

This amount of development is unprecedented in the history of conservation easements, and is not consistent with the stated purpose of Proposition 50 funds. Moreover, it would forever change the undeveloped character and natural resources of the Hearst Ranch.

The easement documents should be modified to state that any development must be consistent with the California Coastal Act and San Luis Obispo County Local Coastal Plan.

b. The easement facilitates sprawl by failing to cluster new homesites into as few areas as possible.

Contrary to the initial statements made by Hearst and ALC, the easement does not require the Hearst Corporation to concentrate its new homesites into as few areas as possible. Rather, the easement allows Hearst to build the above-listed homes in 20 different areas spread out across the entire Ranch, including:

- 5 scattered Owner Homesite Areas;⁷⁸
- 2 scattered Owner Homesite Large Parcels;⁷⁹
- 12 scattered Ranch Employee Housing Areas;⁸⁰ and
- 1 Junge-OSSV Employee Housing Area.⁸¹

These 20 scattered homesites allow fragmentation of the sensitive resources on Hearst Ranch, and spread the resulting environmental impacts across a large area. Moreover, such sprawling development is not permitted under the Coastal Act, which states that

New residential, commercial, or industrial development...shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Cal. Pub. Res. Code § 30250(a). The development proposed under the conservation easement is primarily located within the coastal zone, and thus should be consistent with the Coastal Act at a minimum.

⁷⁷ See *Old San Simeon Village Conservation Easement* § 5(d), which defines “support utility infrastructure” as “water, electrical distribution, sewage treatment system, and distribution pipelines.”

⁷⁸ See *East Side Easement*, Exhibit H § B(a)(1)(A), which establishes five Owner Homesite Areas as indicated on the Owner Homesite Maps attached thereto as Exhibits D-1-A through D-1-F.

⁷⁹ See *East Side Easement*, Exhibit H § B(a)(1)(C), which establishes two “Owner Homesite Large Parcels” that can be located nearly anywhere on the Ranch (“the Owner Homesite on each Owner Homesite Large Parcel is not required to be clustered nor otherwise required to be located within an Owner Homesite Area”).

⁸⁰ See *East Side Easement*, Exhibit H § 9(c), which states, “New employee housing shall be located only in the zones shown on Exhibit D-4 (‘Ranch Employee Housing Areas’).” Exhibit D-4 identifies 12 different areas for this purpose.

⁸¹ See *East Side Easement* § 3(e) and Exhibit D-5.

The easement should be modified to concentrate all new homesites into as few areas as possible. In addition, all new homesites should be sited as close as possible to the Junge Ranch. This would focus new development adjacent to existing development and urban services as required by the Coastal Act.

c. The easement allows some homes to be located in plain view.

The easement provides insufficient protections of the dramatic viewsheds of the Hearst Ranch. Specifically, the easement offers a narrow definition of what constitutes “Protected Views,” and not all homes are required to be screened from public view.

First, the easement includes an overly narrow definition of “Protected Views.” The easement only protects public views from (1) the existing Highway 1 alignment, and (2) five vantage points at Hearst Castle.⁸² This definition fails to include views from the future Highway 1 alignment, a project that is expressly contemplated in the easement documents. Moreover, the easement’s definition of Protected Views fails to include any views from other areas accessible to the public, including the nearby Los Padres National Forest, the proposed Coastal Trail, W.R. Hearst State Beach, and the public access areas at San Simeon Point, Pico Cove, and Ragged Point.

Second, the easement does not require that all homes be screened from public view. Rather, the easement establishes a regime of increasingly weak viewshed protections depending on a home’s distance from Protected Views:

- 1 mile away or less – screened by existing topography;
- 1-5 miles away – screened by existing topography or existing or new landscaping;
- 5+ miles away – NO SCREENING NEEDED.⁸³

At its August hearing, the WCB required clarification that these viewshed protection standards apply to the alignment of Highway 1 as it exists at the time of establishing each owner homesite parcel. However, this condition completely fails to address our concern that *both* alignments should be protected. In fact, it is likely that Hearst will establish its parcels well before the Highway is realigned, meaning that these homesites will forever be in plain view of the realigned Highway.

The definition of Protected Views should be modified to include the existing and realigned Highway 1, as well as additional public viewpoints. The easement should require all structures to be screened from public view, regardless of the distance from these public viewpoints. Screening must only be allowed by existing topography or existing vegetation, as landscaping is not an acceptable method of screening.

⁸² See *East Side Easement* Exhibit H § A(3)(D) (“Each Homesite Improvement Area must be located to accommodate buildings and structures that can be sited to meet the following viewshed criteria from the Castle Vantage Points as shown on Exhibit G and the current alignment of Highway 1.”). Exhibit G shows five Castle Vantage Points, all of which are concentrated immediately adjacent to the castle.

⁸³ See *East Side Easement* Exhibit H § A(3)(D) (“Any structures farther than five (5) miles line of sight from all of the Protected Views are considered to be very distant views and will not need to be Screened.”).

- d. The easement provides a “Fallback Alternative” loophole that allows Hearst to avoid viewshed and resource protections.

The easement contains a so-called “Fallback Alternative” that is triggered when the County or Coastal Commission denies more than one of the homesites proposed under this easement. In such a case, then Hearst has a right to relocate those denied homesites virtually anywhere else on the Ranch.⁸⁴ This loophole allows Hearst to avoid the minimal clustering requirements included in the easement and to avoid the viewshed and resource protections set forth in the easement.⁸⁵ Thus, this loophole delivers a thinly-veiled threat to all government agencies – approve all of Hearst’s homesites or Hearst will construct them somewhere else where they will be even more sprawling and more visible to the public.

The Fallback Alternative should be deleted from the easement altogether.

- e. The easement allows development in sensitive habitat areas.

The easement fails to adequately protect sensitive habitat areas on the Hearst Ranch, which are described in the easement as “one of the most remarkable and diverse assemblages of native plants, plant communities, and natural habitats in California.”⁸⁶ Specifically, the easement allows development in areas classified as Environmentally Sensitive Habitat Areas under the Coastal Act, fails to protect all wetlands, and expressly allows the large-scale cutting of trees.

First, the easement allows development in Environmentally Sensitive Habitat Areas (“ESHA”) by (1) not requiring building sites to avoid ESHA, and (2) establishing development nodes directly in or adjacent to ESHA.⁸⁷ Several developments allowed under the easement would be located in the middle of ESHA. For example, information contained in the California Natural Diversity Database maintained by the Department of Fish and Game and other sources, confirms that the Del Corral and Laguna clusters are located within a globally recognized region of botanical endemism known as “Arroyo de la Cruz Center of Endemism.” These areas contain sensitive vegetation types and rare species such as maritime chaparral, perennial grasslands, coast live oak savannahs, and wetlands. Several proposed homesites directly overlap with the habitat of sensitive species such as the Hickmans’ Onion, Red-legged Frog, and Hearst

⁸⁴ See *East Side Easement* Exhibit H § B(a)(1)(B) (“With respect to each of the five (5) pre-approved Owner Homesite Areas, a Fallback Right will be triggered only upon Denial of two or more Clustered Owner Homesite Parcels for which Grantor has applied for regulatory approval or approvals within that Owner Homesite Area.... Under the Fallback Right, an Owner Homesite may be located on any existing or future legal parcel” and “there will be no obligation to cluster or otherwise locate the Owner Homesite within any of the Owner Homesite Areas”).

⁸⁵ See *East Side Easement* Exhibit H § B(a)(1)(B) (“the Viewshed Criteria otherwise applicable within one mile line of sight from the current alignment of Highway 1 shall be applicable only within one-half (1/2) mile line of sight distance from the current alignment of Highway 1, and the Viewshed Criteria otherwise applicable from one to five (1 to 5) miles line of sight from the current alignment of Highway 1 shall be applicable from ½ mile line of sight distance to 5 miles line of sight from the current alignment of Highway 1.”)

⁸⁶ See *East Side Easement* § D, p. 6.

⁸⁷ The Coastal Act defines ESHA as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” See Cal. Pub. Res. Code § 30107.5

Manzanita.⁸⁸ In addition, the Marmalejo cluster is in a remote interior valley of the Ranch, with vast oak savannahs and riparian corridors, unique for its lack of disturbance and wildlands character.

The 3,000 acres designated for intensified agriculture will also significantly impair sensitive habitat areas, resulting in major conversion of natural grassland habitat. These areas are rich foraging areas for raptors, and support numerous small mammals, deer, coyote, bobcat, ground nesting birds, and other species. Agricultural intensification there will result in increased populations of non-native species, and thus would constitute a major impact on the biodiversity and ecological integrity of the area.

Second, the easement fails to protect all wetlands by establishing an extremely limited definition of the term “wetland.” Wetlands are defined under the easement as “areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”⁸⁹ This definition is different, and much narrower, than the definition of wetlands under the Coastal Act.⁹⁰ Since most wetlands on the Hearst Ranch occur in the coastal zone, *the easement should include a definition of wetland that is at least as stringent as the Coastal Act’s definition.* The easement’s overly narrow definition of the term “wetland” is immediately evident in the fact that the easement only identifies 20 acres of wetlands on the entire 80,000-acre Ranch.⁹¹

The easement does not even require all homesites – let alone all structures – to be located outside of wetlands. The easement provides a 100 foot setback from wetlands, but then applies this setback only to the 27 homesites proposed under the easement. Immune from this 100-foot setback are Ranch employee housing, OSSV employee housing, agricultural development, and the myriad of other accessory and incidental structures that Hearst may construct under the easement.

Third, the easement expressly allows the large-scale cutting of trees, including Oak, Monterey Pine, Ponderosa Pine, Coulter Pine, Knobcone Pine, Santa Lucia Fir, and Sargent Cypress.

⁸⁸ At the proposed Laguna housing area, Site #9 overlaps with Hickman’s Onion (1B by California Native Plant Society), and Sites #1-4 are near Arroyo de la Cruz within the dispersal range of the California Red-Legged Frog (Federally Threatened). At the proposed Del Corral housing area, Sites #1-3 overlap with Hearst Manzanita (State Endangered), San Luis Obispo Sedge (CNPS 1B), and Hickman’s Onion (CNPS 1B). At the proposed Pico housing area, Site #6 is adjacent to Monterey Pine Forest (CNPS 1B).

⁸⁹ See *East Side Easement*, Exhibit H § A(3)(F)(iii).

⁹⁰ The Coastal Commission’s regulations define wetlands as “land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentration of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deepwater habitats.” See C.C.R. § 13577(b). This definition is also used by the U.S. Fish & Wildlife Service and the California Department of Fish & Game.

⁹¹ See *East Side Easement* § D, which references only “20 acres of wetlands and freshwater lagoons.”

Specifically, the easement allows large amounts of tree cutting for everything from “livestock movement corridors” to housing and other development.⁹²

*The easement should require building sites to avoid sensitive habitat areas altogether, and should apply this prohibition to all building sites, not just the 27 homesites. The easement should define wetlands consistent with the Coastal Act definition and should require a 100’ wetland setback for **all** structures. The easement should be modified to prohibit tree cutting for new construction and for livestock, and for all other activities, should minimize tree cutting to the maximum extent feasible.*

At its August hearing, the WCB directed staff to incorporate standards in the Monitoring Protocol to define and protect against “impairment” of conservation values. However, the recently-released draft Monitoring Protocol lacks any discussion of what constitutes impairment.

The draft Monitoring Protocol should be modified to provide detailed standards for the determination of “impairment” in order to satisfy the WCB’s condition.

- f. A loophole in the easement provides immunity to all current activities on the Ranch, and to the proposed Old San Simeon Village Project, even if they threaten habitat values.

The draft easement declares that all “present uses in their current locations” on the Ranch are deemed compliant with the terms of the easement.⁹³ Thus, *all* current activities on the Ranch are *completely* exempt from the easement’s provisions, regardless of the impacts these existing activities may continue to cause to Ranch resources. This exemption must be deleted because it allows Hearst to continue activities that may have direct and harmful impacts to conservation values and is contrary to the purpose of the conservation agreement.

The Old San Simeon Village (“OSSV”) Project receives similar immunity under the easement. Specifically, the easement states that “the development of the OSSV Project, or any integral element thereof, shall not be deemed to impair Conservation Values.”⁹⁴ As noted above, the Coastal Commission found in 1998 that there are significant resources at Old San Simeon which must be protected from development.

⁹² See *East Side Easement* § 6(b) – Woodland Resource Management (“tree cutting on the Easement Area shall be limited to such cutting as is reasonably necessary for the creation and maintenance of reasonable livestock movement corridors, to control insects and disease, to prevent personal injury and property damage, to salvage dead or dying trees, for fuel load management, and minor cutting to create space to reasonably accommodate allowed land uses under Grantor’s [Hearst] retained rights.” Such retained rights include the homesites, Inn, accessory structures, and incidental Ranch facilities described previously).

⁹³ See *East Side Easement* § 14 – Rights Retained by Grantor (“Grantor’s [Hearst’s] present uses in their current locations are deemed to be consistent with the terms of this Conservation Easement”). See also *East Side Easement* § F (“nor is this [Baseline Conditions] report to be used to change or interfere with Grantor’s exercise of its retained rights in accordance with the Conservation Easement”).

⁹⁴ See *OSSV Conservation Easement* § 5 (“No installation, construction, reconstruction, replacement, operation or maintenance of any building, facility or structure of any type shall be allowed to impair Conservation Values; provided, that the development of the OSSV Project, or any integral element thereof, shall not be deemed to impair Conservation Values”); see also *OSSV Conservation Easement* § 1 (“The Parties agree that Grantor’s [Hearst] retention of certain rights specified in this Conservation Easement, including specified agricultural, commercial, and recreational uses, is consistent with the Conservation Purpose.”)

The agreement should be revised to recognize that some current activities on the Ranch might be counter to the goal of resource conservation, and provide a mechanism for bringing these activities into compliance. The OSSV Project should not be deemed compliant with the easement since it will likely impact conservation values.

- g. The development potential of Hearst's Certificates of Compliance are overstated, and should be retired immediately upon signing the Grant Agreement.

Very recently, the Hearst Corporation applied for and received 271 Certificates of Compliance ("COCs") under a loophole in the Subdivision Map Act. This loophole is increasingly used by landowners to inflate the development potential of their lands. These COCs allowed the Hearst Corporation to establish the existence of small, unrecorded land divisions, many of which do not meet current minimum zoning and lot size requirements. In response to COC filings by Hearst and others, the California Legislature passed SB 497, which limits the indiscriminate use of lot line adjustments to create unregulated subdivisions and promote the development or sale of these substandard parcels.

Development on these COC parcels is severely restricted by steep slopes, inaccessibility, and the strict policies of the Coastal Act. Despite the low likelihood of development on many of these sites, the State's independent appraisal relied on the erroneous assumption that Hearst may construct one – or sometimes even two – homes on every single one of these COC parcels, for a grand total of 412 homes! The Hearst Ranch clearly cannot support such a greatly inflated number of homes, and any appraisal that recognizes the full and maximum development potential of these antiquated lots is fundamentally flawed. Perhaps this is why the DGS determined that the State's appraisal overvalued the true value of the Hearst Ranch easement by over 200%.⁹⁵ *The State should conduct an appraisal that more accurately reflects the truly limited development potential on Hearst Ranch.*

The easement also allows the Hearst Corporation to retain many of these COC parcels until the Corporation receives actual building permits to construct homes on the Ranch.⁹⁶

The easement should require the Hearst Corporation to immediately retire the COCs upon the close of escrow, and should be a condition precedent to Hearst's right to apply for any new homes on the property.

⁹⁵ See Letter from Hadley Johnson, Deputy Legislative Analyst to Senator Wesley Chesbro, dated August 3, 2004, p. 2.

⁹⁶ See *East Side Easement* Exhibit H § B(c) – Merger of Certificate of Compliance Parcels ("Upon each issuance of a building permit for an Owner Homesite single family residence on an Owner Homesite Parcel, Grantor shall retire eight (8) existing certificate of compliance parcels, in an order determined by Grantor [Hearst]. Upon creation of the Headquarters and Pico Area parcels, Grantor shall retire thirteen (13) existing certificate of compliance parcels for each parcel created in an order determined by Grantor.... After the Headquarters and Pico Area, and all twenty-seven (27) Owner Homesite Parcels are created and building permits issued for all Owner Homesite single family residences, Grantor shall retire all other remaining certificate of compliance parcels.")

3. Resource Extraction

Oil & Gas Development – The easement allows for the development and extraction of oil and natural gas so long as the easement holder grants permission to do so.⁹⁷ The easement specifically allows disturbance of five “surface acres,” and fails to define the term “disturb.” Moreover, it is unclear whether the infrastructure that is often necessary to support oil and gas development (such as pipelines, equipment, fixtures, roads, etc.) is included in this maximum disturbed area. Such oil and gas drilling must also not be “irremediably destructive of any significant conservation interests,” but this terminology is so broad that nearly any oil and gas development scheme would be permissible.

Mining – The easement also allows for the exploration, development, and extraction of other minerals “by any method,” so long as the easement holder approves such activities and so long as the same six criteria are met.⁹⁸ The same concerns apply here as set forth above. This 5-acre cap does not include any existing mining activities that currently occur on the Ranch, including the Polar Star Mine and several other mining claims.

Water Use – The easement terms regarding water use are inaccurate and insufficient to protect Ranch resources. First, under a provision of the easement, Hearst represents that it has sufficient water rights to sustain present and future uses, including an increase in the amount of intensified agriculture and all new housing, inn, and other development allowed under the easement.⁹⁹ This is inaccurate, as the Coastal Commission has questioned whether there is even sufficient water to support existing ranch activities.¹⁰⁰

Second, the easement allows Hearst to sell water from the Ranch to undisclosed off-site locations, so long as the Grantee gives permission to do so.¹⁰¹ Since there may be insufficient water to support existing Ranch activities, *the easement should not grant Hearst the right to transfer water offsite.*

⁹⁷ See *East Side Easement* § 7(a) – Oil and Natural Gas (“The exploration for, or development and extraction of, oil and natural gas by any subsurface mining method is permitted only with the prior written permission of Grantee [ALC or CRT].” The easement then sets forth six criteria upon which permission may be granted.)

⁹⁸ See *East Side Easement* § 7(b) – Other Minerals (“The exploration for, or development and extraction of, minerals other than oil and natural gas by any method of mining is permitted only with the prior written permission of Grantee [ALC or CRT].” The easement then sets forth the same six criteria upon which permission may be granted.)

⁹⁹ See *East Side Easement* § 12 – Water Rights (“Grantor [Hearst] represents that the water and water rights associated with the Easement Area are and shall be sufficient to sustain present and future agricultural productivity, other retained rights and Conservation Values on the Easement Area.”)

¹⁰⁰ In the 1997 North Coast Area Plan, Hearst proposed to divert water from Arroyo de la Cruz to satisfy its water supply needs. However, the EIR for the NCAP revealed that the hydrological safe yield of the Creek was only 430 acre-feet per year, much less than the amount needed to support the proposed development on the Ranch. (*Final Environmental Impact Report for the North Coast Area Plan, volume I, p. 5.3-3.*) At the same time, the California Department of Fish and Game biologist determined that the *biological safe yield* (the amount necessary to support the Steelhead – a critical Conservation Value on the Ranch – was closer to 0 acre-feet per year. See (*Steelhead Population and Habitat Assessment on Arroyo de La Cruz, San Luis Obispo County 1993??*).

¹⁰¹ See *East Side Easement* § 12 – Water Rights (“Grantor [Hearst] may transfer water or water rights from the Easement Area for use outside the Ranch only with the prior written permission of Grantee.”)

CONCLUSION

This is a historic opportunity to truly preserve the remarkable resources of the Hearst Ranch. The easement as it currently is written, however, falls far short of the protection needed to sustain these resources, and falls far short of the public's expectation. We support the conservation of Hearst Ranch, but cannot support this project unless the documents are changed to provide for meaningful public access, resource protection and enforcement. Please direct your staff to make these necessary changes, and to ensure adequate public input in developing the Public Access Plan and resource management documents.

Thank you for your consideration of our comments and recommendations. We look forward to approval of a Hearst Ranch conservation plan that will be supported by all residents of the State.

Sincerely,

Linda Krop
Chief Counsel

cc: Governor Arnold Schwarzenegger
Mike Chrisman, Secretary, California Resources Agency
Sam Schuchat, Executive Officer, State Coastal Conservancy
Janet Diehl, Project Manager, State Coastal Conservancy
Al Wright, Executive Director, Wildlife Conservation Board
Ryan Broddrick, Director, Department of Fish and Game
Peter Douglas, Executive Director, California Coastal Commission
Donna Arduin, Director, Public Works Board
Tony Harris, Director, California Department of Transportation
Ruth Coleman, Director, California Department of Parks and Recreation
Friends of the RanchLand

Exhibit 9.1: Public Comment—Letters

route in 1769. This trail, which ascends the San Carpofo drainage, still enjoys constant yet informal public use.

Such access can be accommodated without infringement on public views, without negative impacts on sensitive habitats, and without encroachment on potential private homesites and agricultural operations. The plan should be revised to include the historic public trail on the east side of Highway 1. The access should be managed by State Parks and could be based on a permit system.

6. The option to include the Junge Ranch should be extended in order to provide for public camping opportunities.

The Junge Ranch is a portion of the Hearst Ranch that surrounds the community of San Simeon Acres. The draft grant agreement proposes to transfer the Junge Ranch to the State in full, if and only if the Hearst Corporation receives a tax credit under the Natural Heritage Preservation Tax Credit Act of 2000.⁸⁸

However, Junge Ranch is crucial to this conservation deal and should not be excluded from the overall agreement under any circumstances. Under the draft easement, the Junge Ranch would provide the only opportunity for public camping.⁸⁹ This opportunity would be lost if the state tax credit is not funded this year.

The proposal should be revised to retain this opportunity unconditionally so that the transfer may occur should funding be approved in the future.

7. The Public Access Parameters and Recommended Access Plans are incomplete, and must be finished before the WCB approves the overall agreement.

Under the easement, State Parks is required to manage public access along the Coastal Trail, San Simeon Point, Ragged Point, and Pico Cove consistent with the Public Access Parameters. Moreover, State Parks must prepare a Public Access Plan in accordance with these parameters.⁹⁰ These parameters and plans will set forth significant restrictions on public access. However, they are not completed, and are subject to the approval of the Hearst Corporation.

⁸⁸ See *Overall Transaction Summary*, p. 6; see also *East Side Easement* § A (“If the Junge Ranch is not included in initial closing because of inability or delay in getting tax credits, Junge Ranch will be removed from the legal description of the Ranch”).

⁸⁹ See *Gift Deed for Conveyance of Restricted Fee Interest in Public Ownership Lands to State Parks*, Exhibit A – Legal Description of the Property (“The conservation easement over the Junge West Side Conservation Easement Area would have similar restrictions on use as applied to the Public Lands Conservation Areas of the West Side Easement (TEA funding) except that walk in, primitive campsites would be allowed outside of the Highway One viewshed.”).

⁹⁰ See *State Parks Public Access Conservation Easement* § 2 (“Prior to Grantee [CDPR] allowing Public Access or installing any Public Access improvements over or on any part of the Public Access Easement Area, Grantee shall have completed a Public Access Plan consistent with the Access Parameters.”).

Exhibit 9.1: Public Comment—Letters

The Public Access Plan is not complete; rather, the State has only provided a list of draft recommendations for such plans.⁹¹ Worse, until these plans are finalized and implemented, the easement specifically prohibits *any* public access to these areas.⁹² The easement fails to specify a date for completion of these access plans.⁹³ And the public access parameters, on which these Public Access Plans supposedly rely, are not even complete and instead “are subject to further refinement.”⁹⁴ Finally, the Hearst Corporation has ultimate veto authority on the final Public Access Plans.⁹⁵

The WCB should not approve the Public Access Parameters, the Recommended Access Plans, nor the easement itself which incorporates these documents by reference, until the WCB and the public has reasonable time to review and comment on final versions of these documents. At the very least, the easement should require this plan to be completed by a date certain, and to allow reasonable public access consistent with resource protection in the interim. In addition, Hearst should not have approval authority over the Public Access Plans.

D. DEVELOPMENT

The stated purpose of conservation easements under the California Civil Code is “to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.”⁹⁶ Instead of achieving this purpose, the Hearst Ranch conservation easement reads more like a development agreement, allowing substantial development without sufficient safeguards for the protection of natural resources and scenic viewsheds. The easement should be modified to uphold the stated purposes of conservation easements as set forth under state law, as well as to ensure compliance with Proposition 50. In addition, the easement must be modified to ensure conformity with the California Coastal Act and San Luis Obispo County Local Coastal Plan.⁹⁷

⁹¹ The Access Plans are still in draft form. See *State Parks Public Access Conservation Easement* Exhibits D-2 and D-3 – Recommended Access Plans.

⁹² See *State Parks Public Access Conservation Easement* § 2 (“Prior to Grantee [CDPR] allowing Public Access or installing any Public Access improvements over or on any part of the Public Access Easement Area, Grantee shall have completed a Public Access Plan consistent with the Access Parameters.”).

⁹³ For example, see *OSSV Conservation Easement* § 4(c) (“Within ____ [time period] after the Effective Date, Grantee shall prepare for Grantor’s review and approval a comprehensive Public Access Plan consistent with the Access Parameters.”).

⁹⁴ See *State Parks Public Access Conservation Easement* § 2 (“Grantee [CDPR] shall manage and control Public Access in accordance with the ‘Access Parameters’ attached hereto as ‘Exhibit D’”). Exhibit D, however, states that “Access Parameters and Recommended Access Plans are subject to further refinement, including more specification of limits on Public Access buildings, structures, and facilities.”. See also *OSSV Conservation Easement*, Exhibit F – Access Parameters (“The Parties are preparing more detailed Access Parameters and a Recommended Access Plan.”).

⁹⁵ See *State Parks Public Access Conservation Easement* § 2 (“The public access plan will be subject to Grantor’s [Hearst] approval based upon a determination that the Public Access Plan is consistent with the Access Parameters.”).

⁹⁶ Cal. Civ. Code § 815.1

⁹⁷ See California Coastal Commission analysis, dated August 5, 2004. As proposed, the easement violates Coastal Act and LCP requirements for public access and protection of agriculture, views, and environmentally sensitive habitats.

Exhibit 9.1: Public Comment—Letters

1. The easement allows too much development.

During negotiations, the public was led to believe that this conservation easement would restrict development on the Ranch to 27 homesites and one 100-room inn. The fine print of the actual easement allows much more than this, including:

- 27 New Owner Homesites;⁹⁸
- 10 New Ranch Employee Homesites; and⁹⁹
- 5 New Replacement Ranch Employee Homesites; plus an¹⁰⁰
- Unspecified Number or Amount of:
 - Old San Simeon Village New Employee Housing¹⁰¹
 - Accessory Structures & Facilities for New Owner Homesites¹⁰²
 - New/Replacement Incidental Ranch Facilities¹⁰³
 - Enlargements/Replacements of Non-Residential Structures¹⁰⁴
 - Enlargements/Replacements of Existing Owner Dwellings and Accessory Structures¹⁰⁵
 - Replacement/Enlargement of Existing Aircraft Runway and Associated Structures¹⁰⁶
 - New/Relocated Roads, Paving of Existing Roads¹⁰⁷
 - Enlargement/Replacement of Existing Employee Housing to Support Ranch Uses¹⁰⁸
 - Replacement of Warehouses and other Existing OSSV Structures;¹⁰⁹ and
- Old San Simeon Village Project, which includes the following in a 39-acre development envelope:¹¹⁰

⁹⁸ See *East Side Easement* § 3(d) – New Owner Homesites

⁹⁹ See *East Side Easement* § 9(c) – New Employee Housing to Support Ranch Uses

¹⁰⁰ See *East Side Easement* § 9(c) – New Employee Housing to Support Ranch Uses

¹⁰¹ See *East Side Easement* § 3(e) (“Employee housing units to support a small inn of no more than 100 new units and visitor serving uses to be located in OSSV...will be limited to the number of units, if any, required by any regulatory agency as a condition of approval of development of any allowable OSSV Uses.”).

¹⁰² See *East Side Easement* § 3(d) – New Owner Homesites

¹⁰³ See *East Side Easement* § 3(a) (“ ‘Incidental Ranch Facilities’ consist of fences, squeezes, loading chutes, holding fields, corrals, utilities (including gas, electrical and telecommunications), sewage disposal facilities and systems, and water distribution and irrigation facilities”); see also *CalTrans Scenic Conservation Easement* § 5(b) and *Old San Simeon Village Conservation Easement* § 5(b).

¹⁰⁴ See *East Side Easement* § 3(b) (“Grantor may enlarge (by not more than a cumulative fifty percent in size per structure), repair and replace, with a like facility, any non-residential building and any other non-residential structure or facility...without having to seek permission from Grantee.... Before any other construction or enlargement greater than a cumulative fifty percent in size..., Grantor must first obtain the written consent of Grantee.”).

¹⁰⁵ See *East Side Easement* § 3(c) – Existing Owner Dwellings and Accessory Structures

¹⁰⁶ See *East Side Easement* § 3(g) – Aircraft Runway and Associated Structures

¹⁰⁷ See *East Side Easement* § 8 – Roads; see also *CalTrans Scenic Conservation Easement* § 10 – Road Construction.

¹⁰⁸ See *East Side Easement* § 9(b) – Existing Employee Housing to Support Ranch Uses

¹⁰⁹ See *Old San Simeon Village Conservation Easement* § 5(a) – Existing Structures

Exhibit 9.1: Public Comment—Letters

- Unlimited Reuse of Existing Structures, such as warehouses;
- Unlimited Amount of New Structures;
- 100-Room Inn;
- Unlimited Roads and Parking; and
- Support Utility Infrastructure.¹¹¹

This amount of development is unprecedented in the history of conservation easements, and is not consistent with the stated purpose of Proposition 50 funds. Moreover, it would forever change the undeveloped character and natural resources of the Hearst Ranch.

The easement documents should be modified to reduce the overall amount of development that is allowed on the Hearst Ranch.

2. The easement facilitates sprawl by failing to cluster new homesites into as few areas as possible.

The easement does not require the Hearst Corporation to concentrate its new homesites into as few areas as possible. Such clustering would minimize sprawl and the associated environmental impacts. Rather, the easement allows Hearst to build the above-listed homes in 20 different areas spread out across the entire Ranch, including:

- 5 scattered Owner Homesite Areas;¹¹²
- 2 scattered Owner Homesite Large Parcels;¹¹³
- 12 scattered Ranch Employee Housing Areas;¹¹⁴ and
- 1 Junge-OSSV Employee Housing Area.¹¹⁵

These scattered homesites allow fragmentation of the sensitive resources on Hearst Ranch, and spread the resulting environmental impacts across a large area. Moreover, such sprawling development is not permitted under the Coastal Act, which states that

New residential, commercial, or industrial development...shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have

¹¹⁰ See *Old San Simeon Village Conservation Easement* § 5(d) – Old San Simeon Village Historic Conservation Project

¹¹¹ See *Old San Simeon Village Conservation Easement* § 5(d), which defines “support utility infrastructure” as “water, electrical distribution, sewage treatment system, and distribution pipelines.”

¹¹² See *East Side Easement*, Exhibit H § B(a)(1)(A), which establishes five Owner Homesite Areas as indicated on the Owner Homesite Maps attached thereto as Exhibits D-1-A through D-1-F.

¹¹³ See *East Side Easement*, Exhibit H § B(a)(1)(C), which establishes two “Owner Homesite Large Parcels” that can be located nearly anywhere on the Ranch (“the Owner Homesite on each Owner Homesite Large Parcel is not required to be clustered nor otherwise required to be located within an Owner Homesite Area”).

¹¹⁴ See *East Side Easement*, Exhibit H § 9(c), which states, “New employee housing shall be located only in the zones shown on Exhibit D-4 (‘Ranch Employee Housing Areas’).” Exhibit D-4 identifies 12 different areas for this purpose.

¹¹⁵ See *East Side Easement* § 3(e) and Exhibit D-5.

Exhibit 9.1: Public Comment—Letters

significant adverse effects, either individually or cumulatively, on coastal resources.

Cal. Pub. Res. Code § 30250(a). The development proposed under the conservation easement is primarily located within the coastal zone, and thus should be consistent with the Coastal Act at a minimum.

The easement should be modified to concentrate all new homesites into as few areas as possible. In addition, all new homesites should be sited as close as possible to the Junge Ranch. This would focus new development adjacent to existing development and urban services as required by the Coastal Act.

3. The easement allows some homes to be located in plain view.

The easement provides insufficient protections of the dramatic viewsheds of the Hearst Ranch. Specifically, the easement offers a narrow definition of what constitutes “Protected Views,” and not all homes are required to be screened from public view.

First, the easement includes an overly narrow definition of “Protected Views.” The easement only protects public views from (1) the existing Highway 1 alignment, and (2) five vantage points at Hearst Castle.¹¹⁶ This definition fails to include views from the future Highway 1 alignment, a project that is expressly contemplated in the easement documents. Moreover, the easement’s definition of Protected Views fails to include any views from other areas accessible to the public, including the nearby Los Padres National Forest, the proposed Coastal Trail, W.R. Hearst State Beach, and the public access areas at San Simeon Point, Pico Cove, and Ragged Point.

Second, the easement does not require that all homes be screened from public view. Rather, the easement establishes a regime of increasingly weak viewshed protections depending on a home’s distance from Protected Views:

- 1 mile away or less – screened by existing topography;
- 1-5 miles away – screened by existing topography or existing or new landscaping;
- 5+ miles away – NO SCREENING NEEDED.¹¹⁷

The definition of Protected Views should be modified to include the existing and realigned Highway 1, as well as additional public viewpoints. The easement should require all structures to be screened from public view, regardless of the distance from

¹¹⁶ See *East Side Easement* Exhibit H § A(3)(D) (“Each Homesite Improvement Area must be located to accommodate buildings and structures that can be sited to meet the following viewshed criteria from the Castle Vantage Points as shown on Exhibit G and the current alignment of Highway 1.”). Exhibit G shows five Castle Vantage Points, all of which are concentrated immediately adjacent to the castle.

¹¹⁷ See *East Side Easement* Exhibit H § A(3)(D) (“Any structures farther than five (5) miles line of sight from all of the Protected Views are considered to be very distant views and will not need to be Screened.”).

Exhibit 9.1: Public Comment—Letters

these public viewpoints. Screening must only be allowed by existing topography or existing vegetation, as landscaping is not an acceptable method of screening.

4. The easement provides a “Fallback Alternative” loophole that allows Hearst to avoid viewshed and resource protections.

The easement contains a so-called “Fallback Alternative” that is triggered when the County or Coastal Commission denies more than one of the homesites proposed under this easement. The Fallback Alternative weakens the viewshed and resource protections set forth in the easement.

Under the Fallback Alternative, if a government agency (such as the Coastal Commission) denies more than one of the homesites proposed under this easement, then Hearst has a right to relocate those denied homesites virtually anywhere else on the Ranch.¹¹⁸ This loophole allows Hearst to avoid the minimal clustering requirements included in the easement.

Worse, the Fallback Alternative homesites are only required to provide half as much viewshed protection as the original homesites.¹¹⁹ Thus, this loophole delivers a thinly-veiled threat to all government agencies – approve all of Hearst’s homesites or Hearst will construct them somewhere else where they will be even more sprawling and more visible to the public.

The Fallback Alternative should be deleted from the easement altogether.

5. The easement allows development in sensitive habitat areas.

The easement fails to adequately protect sensitive habitat areas on the Hearst Ranch, which are described in the easement as “one of the most remarkable and diverse assemblages of native plants, plant communities, and natural habitats in California.”¹²⁰ Specifically, the easement allows development in areas classified as Environmentally Sensitive Habitat Areas under the Coastal Act, fails to protect all wetlands, and expressly allows the large-scale cutting of trees.

¹¹⁸ See *East Side Easement* Exhibit H § B(a)(1)(B) (“With respect to each of the five (5) pre-approved Owner Homesite Areas, a Fallback Right will be triggered only upon Denial of two or more Clustered Owner Homesite Parcels for which Grantor has applied for regulatory approval or approvals within that Owner Homesite Area.... Under the Fallback Right, an Owner Homesite may be located on any existing or future legal parcel” and “there will be no obligation to cluster or otherwise locate the Owner Homesite within any of the Owner Homesite Areas”).

¹¹⁹ See *East Side Easement* Exhibit H § B(a)(1)(B) (“the Viewshed Criteria otherwise applicable within one mile line of sight from the current alignment of Highway 1 shall be applicable only within one-half (1/2) mile line of sight distance from the current alignment of Highway 1, and the Viewshed Criteria otherwise applicable from one to five (1 to 5) miles line of sight from the current alignment of Highway 1 shall be applicable from ½ mile line of sight distance to 5 miles line of sight from the current alignment of Highway 1.”)

¹²⁰ See *East Side Easement* § D, p. 6.

Exhibit 9.1: Public Comment—Letters

First, the easement allows development in Environmentally Sensitive Habitat Areas (“ESHA”) by (1) not requiring building sites to avoid ESHA, and (2) establishing development nodes directly in or adjacent to ESHA.¹²¹ As proposed, the easement allows construction of any of the 27 homes in ESHA so long as they are “located so as to not impair sensitive habitat areas.”¹²² The easement does not define what constitutes “impairment,” which will result in several disputes (and likely litigation) between Hearst and the easement holder as to whether certain activities actually impair habitat areas. The easement should instead require building sites to avoid sensitive habitat areas altogether, and should apply this prohibition to all building sites, not just the 27 homesites.

Several developments allowed under the easement will impair ESHA because several development nodes are located in the middle of ESHA. Based on information contained in the California Natural Diversity Database maintained by the Department of Fish and Game and other sources, it appears that the Del Corral and Laguna clusters are located within a globally recognized region of botanical endemism known as “Arroyo de la Cruz Center of Endemism.” These areas contain sensitive vegetation types and rare species such as maritime chaparral, perennial grasslands, coast live oak savannahs, and wetlands. Several proposed homesites directly overlap with the habitat of sensitive species such as the Hickmans’ Onion, Red-legged Frog, and Hearst Manzanita.¹²³ In addition, the Marmalejo cluster is in a remote interior valley of the Ranch, with vast oak savannahs and riparian corridors, unique for its lack of disturbance and wildlands character.

The 3,000 acres designated for intensified agriculture will also significantly impair sensitive habitat areas, resulting in major conversion of natural grassland habitat. These areas are rich foraging areas for raptors, and support numerous small mammals, deer, coyote, bobcat, ground nesting birds, and other species. Agricultural intensification there will result in increased populations of non-native species, and thus would constitute a major impact on the biodiversity and ecological integrity of the area.

Second, the easement fails to protect all wetlands by establishing an extremely limited definition of the term “wetland.” Wetlands are defined under the easement as “areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”¹²⁴ This definition is different, and much narrower, than the definition of wetlands under the Coastal Act.¹²⁵

¹²¹ The Coastal Act defines ESHA as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” See Cal. Pub. Res. Code § 30107.5

¹²² See *East Side Easement*, Exhibit H § A(3)(F)(v).

¹²³ At the proposed Laguna housing area, Site #9 overlaps with Hickman’s Onion (1B by California Native Plant Society), and Sites #1-4 are near Arroyo de la Cruz within the dispersal range of the California Red-Legged Frog (Federally Threatened). At the proposed Del Corral housing area, Sites #1-3 overlap with Hearst Manzanita (State Endangered), San Luis Obispo Sedge (CNPS 1B), and Hickman’s Onion (CNPS 1B). At the proposed Pico housing area, Site #6 is adjacent to Monterey Pine Forest (CNPS 1B).

¹²⁴ See *East Side Easement*, Exhibit H § A(3)(F)(iii).

¹²⁵ The Coastal Commission’s regulations define wetlands as “land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly

Exhibit 9.1: Public Comment—Letters

Since most wetlands on the Hearst Ranch occur in the coastal zone, the easement should include a definition of wetland that is at least as stringent as the Coastal Act's definition. The easement's overly narrow definition of the term "wetland" is immediately evident in the fact that the easement only identifies 20 acres of wetlands on the entire 80,000-acre Ranch.¹²⁶

The easement does not even require all homesites – let alone all structures – to be located outside of wetlands. The easement provides a 100 foot setback from wetlands, but then applies this setback only to the 27 homesites proposed under the easement. Immune from this 100-foot setback are Ranch employee housing, OSSV employee housing, agricultural development, and the myriad of other accessory and incidental structures that Hearst may construct under the easement.

Third, the easement expressly allows the large-scale cutting of trees, including Oak, Monterey Pine, Ponderosa Pine, Coulter Pine, Knobcone Pine, Santa Lucia Fir, and Sargent Cypress. Specifically, the easement allows large amounts of tree cutting for everything from "livestock movement corridors" to housing and other development.¹²⁷ The easement should be modified to prohibit tree cutting for new construction and for livestock, and for all other activities, should minimize tree cutting to the maximum extent feasible.

6. The development potential of Hearst's Certificates of Compliance are overstated, and should be retired immediately upon signing the Grant Agreement.

Very recently, the Hearst Corporation applied for and received 271 Certificates of Compliance ("COCs") under a loophole in the Subdivision Map Act. This loophole is increasingly used by landowners to inflate the development potential of their lands. These COCs allowed the Hearst Corporation to establish the existence of small, unrecorded land divisions, many of which do not meet current minimum zoning and lot size requirements. In response to COC filings by Hearst and others, the California Legislature passed SB 497, which limits the indiscriminate use of lot line adjustments to create unregulated subdivisions and promote the development or sale of these substandard parcels.

developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentration of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deepwater habitats." See C.C.R. § 13577(b). This definition is also used by the U.S. Fish & Wildlife Service and the California Department of Fish & Game.

¹²⁶ See *East Side Easement* § D, which references only "20 acres of wetlands and freshwater lagoons."

¹²⁷ See *East Side Easement* § 6(b) – Woodland Resource Management ("tree cutting on the Easement Area shall be limited to such cutting as is reasonably necessary for the creation and maintenance of reasonable livestock movement corridors, to control insects and disease, to prevent personal injury and property damage, to salvage dead or dying trees, for fuel load management, and minor cutting to create space to reasonably accommodate allowed land uses under Grantor's [Hearst] retained rights." Such retained rights include the homesites, Inn, accessory structures, and incidental Ranch facilities described previously.

Development on these COC parcels is severely restricted by steep slopes, inaccessibility, and the strict policies of the Coastal Act. Despite the low likelihood of development on many of these sites, the State's independent appraisal relied on the erroneous assumption that Hearst may construct one – or sometimes even two – homes on every single one of these COC parcels, for a grand total of 412 homes! The Hearst Ranch clearly cannot support such a greatly inflated number of homes, and any appraisal that recognizes the full and maximum development potential of these antiquated lots is fundamentally flawed. Perhaps this is why the DGS determined that the State's appraisal overvalued the true value of the Hearst Ranch easement by over 200%.¹²⁸ The State should conduct an appraisal that more accurately reflects the truly limited development potential on Hearst Ranch.

The easement also allows the Hearst Corporation to retain many of these COC parcels until the Corporation receives actual building permits to construct homes on the Ranch.¹²⁹ Instead, the easement should require the Hearst Corporation to immediately retire the COCs upon the close of escrow, and should be a condition precedent to Hearst's right to apply for any new homes on the property.

E. RESOURCE EXTRACTION

The easement allows oil and gas exploration and development, strip mining, and even allows Hearst to transfer water offsite. Such activities are unacceptable for a "conservation" easement, and should be prohibited outright.

Oil & Gas Development – The easement allows for the development and extraction of oil and natural gas so long as the easement holder grants permission to do so.¹³⁰ The easement specifically allows disturbance of five "surface acres," and fails to define the term "disturb." Moreover, it is unclear whether the infrastructure that is often necessary to support oil and gas development (such as pipelines, equipment, fixtures, roads, etc.) is included in this maximum disturbed area. Such oil and gas drilling must also not be "irremediably destructive of any significant conservation interests," but this terminology is so broad that nearly any oil and gas development scheme would be permissible.

Mining – The easement also allows for the exploration, development, and extraction of other minerals "by any method," so long as the easement holder approves such activities and so long as the same six criteria are met.¹³¹ The same concerns apply here as set forth

¹²⁸ See Letter from Hadley Johnson, Deputy Legislative Analyst to Senator Wesley Chesbro, dated August 3, 2004, p. 2.

¹²⁹ See *East Side Easement* Exhibit H § B(c) – Merger of Certificate of Compliance Parcels ("Upon each issuance of a building permit for an Owner Homesite single family residence on an Owner Homesite Parcel, Grantor shall retire eight (8) existing certificate of compliance parcels, in an order determined by Grantor [Hearst]. Upon creation of the Headquarters and Pico Area parcels, Grantor shall retire thirteen (13) existing certificate of compliance parcels for each parcel created in an order determined by Grantor.... After the Headquarters and Pico Area, and all twenty-seven (27) Owner Homesite Parcels are created and building permits issued for all Owner Homesite single family residences, Grantor shall retire all other remaining certificate of compliance parcels.")

Exhibit 9.1: Public Comment—Letters

above. This 5-acre cap does not include any existing mining activities that currently occur on the Ranch, including the Polar Star Mine and several other mining claims.

Water Use – The easement terms regarding water use are inaccurate and insufficient to protect Ranch resources. First, under a provision of the easement, Hearst represents that it has sufficient water rights to sustain present and future uses, including an increase in the amount of intensified agriculture and all new housing, inn, and other development allowed under the easement.¹³² This is inaccurate, since the Coastal Commission questions whether there is even sufficient water to support existing ranch activities.

Second, the easement allows Hearst to sell water from the Ranch to undisclosed off-site locations, so long as the Grantee gives permission to do so.¹³³ Since there may be insufficient water to support existing Ranch activities, the easement should not grant Hearst the right to transfer water offsite.

F. CONCLUSION

This is a historic opportunity to truly preserve the remarkable resources of the Hearst Ranch. The easement as it currently is written, however, falls far short of the protection needed to sustain these resources, and falls far short of the public's expectation. We support the conservation of Hearst Ranch, but will not support this Conservation Easement until all parties involved return to the table and make the improvements outlined above. Until then, we request that all State agencies postpone any funding allocations in order to allow for the true preservation of Hearst Ranch.

Sincerely,

Linda Krop
Chief Counsel

Jeff Kuyper
Legal Analyst

cc: Governor Arnold Schwarzenegger

¹³⁰ See *East Side Easement* § 7(a) – Oil and Natural Gas (“The exploration for, or development and extraction of, oil and natural gas by any subsurface mining method is permitted only with the prior written permission of Grantee [ALC or CRT].” The easement then sets forth six criteria upon which permission may be granted.)

¹³¹ See *East Side Easement* § 7(b) – Other Minerals (“The exploration for, or development and extraction of, minerals other than oil and natural gas by any method of mining is permitted only with the prior written permission of Grantee [ALC or CRT].” The easement then sets forth the same six criteria upon which permission may be granted.)

¹³² See *East Side Easement* § 12 – Water Rights (“Grantor [Hearst] represents that the water and water rights associated with the Easement Area are and shall be sufficient to sustain present and future agricultural productivity, other retained rights and Conservation Values on the Easement Area.”)

¹³³ See *East Side Easement* § 12 – Water Rights (“Grantor [Hearst] may transfer water or water rights from the Easement Area for use outside the Ranch only with the prior written permission of Grantee.”)

Exhibit 9.1: Public Comment—Letters

Mike Chrisman, Secretary, California Resources Agency
Al Wright, Executive Director, Wildlife Conservation Board
Sam Schuchat, Executive Officer, State Coastal Conservancy
Janet Diehl, Project Manager, State Coastal Conservancy
Ryan Broddrick, Director, Department of Fish and Game
Peter Douglas, Executive Director, California Coastal Commission
Donna Arduin, Director, Public Works Board
Tony Harris, Director, California Department of Transportation
Ruth Coleman, Director, California Department of Parks and Recreation

Exhibit 9.1: Public Comment—Letters

HEARST RANCH: HOUSING DEVELOPMENT CONCERNS August 2004

1. The Easement Allows for Significant Development. The draft Easement allows Hearst to develop a minimum of 42 new homesites and possibly more, including:

- 27 new owner homesites east of Highway 1;
- 15 new homesites for Ranch employees;
- Unlimited number of Old San Simeon Village employee units; and
- Unspecified number of accessory structures, enlargements, facilities, and roads.

The Agreement allows for an *unlimited* number of employee housing units for the proposed 100-room inn at Old San Simeon Village (“OSSV”). This essentially gives Hearst a blank check to build even more houses than the public was led to believe would be allowed.

***Requested Change:** To preserve the intent of the Framework, the amount of development allowed under the Easement should be reduced in order to achieve true conservation of Hearst Ranch.*

2. The Easement Allows Sprawling Development on the Ranch. The Easement does not require the Hearst Corporation to concentrate its new homesites in order to minimize sprawl and associated environmental impacts, as required by the California Coastal Act. Rather, the Easement allows Hearst to build the above homes in *20 different areas* spread across the entire Ranch, including:

- 5 scattered Owner Homesite Areas;
- 2 scattered Owner Homesite Large Parcels;
- 12 scattered Ranch Employee Housing Areas; and
- 1 Junge-OSSV Employee Housing Area.

These scattered homesites allow fragmentation of Ranch resources, spreading environmental impacts across the entire Ranch.

***Requested Change:** The Easement should be modified to concentrate all homesites into as few areas as possible, such as the Junge Ranch, adjacent to existing development and urban services as required by the Coastal Act.*

3. The Easement Allows Homes to Be Located in Plain View. The Easement only protects public views from the existing Highway 1 alignment and Hearst Castle. The Easement fails to protect any views from the future Highway 1 realignment, and fails to protect views from other public areas, such as the nearby National Forest, the proposed Coastal Trail, Hearst State Beach, and the proposed public access areas. In addition, the Easement sets up a regime of increasingly weak viewshed protections depending on a home’s distance from Protected Views:

- 1 mile away or less – screened by “existing topography” (tucked behind hillsides);
- 1-5 miles away – screened by “existing topography, existing vegetation, and/or ‘Landscaping’” (sited in plain view so long as the homes are landscaped);
- 5+ miles away – NO SCREENING NEEDED.

Requested Change: The definition of “Protected Views” should be modified to include the existing *and* realigned Highway 1, as well as additional public viewpoints. The Easement should require *all* structures to be screened from public view, regardless of the distance from these public viewpoints. Screening must only be allowed by existing topography or existing vegetation – landscaping is not an acceptable method of screening.

4. The Easement Allows Homesites in Sensitive Areas. The Easement provides some habitat protections for homesite locations. However, the Easement allows Hearst to remove rare trees to make way for new houses and to facilitate livestock movement. Also, the Easement does not prevent Hearst from building homes in sensitive habitat areas; rather, Hearst may build homes adjacent to or even inside these sensitive

Exhibit 9.1: Public Comment—Letters

habitat areas so long as such construction does not “impair” these sensitive habitat areas, with no definition of what constitutes impairment.

Requested Change: *The Easement should be modified to require homesites and other major structures to avoid oak woodlands, rare trees, and other sensitive habitat area, as required by the Coastal Act.*

5. The “Fallback Alternative” is a Loophole that Allows Hearst to Avoid Viewshed and Resource Protections. The Easement contains a so-called “Fallback Alternative” that is triggered when the County or Coastal Commission denies more than one of the 27 proposed homesites. Given the many violations of the Coastal Act, the “Fallback Alternative” will likely become the project. Under this proposal, Hearst would be allowed to locate homesites virtually *anywhere* on the Ranch. Worse, these fallback homesites are only required to provide half as much viewshed protection as the original homesites. Thus, this Easement delivers a thinly-veiled threat to all government agencies, and a likely scenario that will result in increased impacts on the Ranch.

Requested Change: *The Fallback Alternative should be deleted from the Easement altogether.*

6. The Development Potential of Hearst’s Certificates of Compliance are Overstated.

Very recently, Hearst applied for and received 271 Certificates of Compliance (“COCs”) under a loophole in the Subdivision Map Act used by developers to inflate the development potential of their lands. These COCs allowed Hearst to establish the legal existence of small, unrecorded land divisions, many of which do not meet current zoning and minimum lot-size requirements. In response to Hearst’s and other COC filings, the State of California passed SB 497, which limits the indiscriminate use of lot line adjustments to create unregulated subdivisions.

Nevertheless, the State’s independent appraisal relied on the erroneous assumption that Hearst may construct one – or sometimes even two – homes on every single one of these COC parcels, for a grand total of 412 homes. The Hearst Ranch clearly cannot support such a largely inflated number of homes – development on these parcels is restricted by steep slopes, inaccessibility, and is subject to strict development prohibitions in the Coastal Zone. Moreover, the Easements allows Hearst to retain these COC parcels until the Corporation receives approval to construct homes on the Ranch.

Requested Changes: *The State should conduct an appraisal that more accurately reflects this severely restricted development potential of Hearst Ranch. In addition, the Easement should require the Hearst Corporation to immediately retire the COCs upon the close of escrow, and should be a condition precedent to Hearst’s right to apply for any new homes on the property.*

Prepared by Environmental Defense Center, Linda Krop, (805) 963-1622/455-2392

Exhibit 9.1: Public Comment—Letters

HEARST RANCH PROPOSAL PUBLIC ACCESS – CONCERNS AND RECOMMENDATIONS August 2004

While the proposed agreement between the State and the Hearst Corporation provides for public access, it does not provide sufficient public benefit, and in fact reduces existing public access in important coastal areas. This is because the public has enjoyed access to coastal trails and beaches at the Hearst Ranch for generations. To ensure continued and enhanced public access, all lands west of Highway One should be deeded to the State. If this transfer is not feasible, however, then the State must oversee an easement that preserves public coastal access consistent with natural resource protection.

- **West Side Access Restrictions:** Currently, the public enjoys unlimited access to trails and the beach at San Simeon Point, Ragged Point, and Pico Cove. The proposal would significantly reduce this access, and could prohibit public use completely under certain circumstances. For example, at San Simeon Point, the proposal would limit public access to 300 days per year, for up to 100 people, from 1/2 hour after sunrise to 1/2 before sunset, and may restrict access to guided tours. There is nothing evident in the deal as proposed that would prevent private guests at the proposed Hearst hotel at Old San Simeon from filling the 100 slots for public access, to the exclusion of the general public. At Ragged Point and Pico Cove, the proposal would limit trail access to 80 people per year (20 people on a guided tour every three months).

***Requested Change:** For each of these areas, the easement should be revised to retain public trail and beach access throughout the year, without limitations on the numbers of people per day or the requirement for guided tours. The access should include trail delineations (including roping if necessary) and signage to protect natural resources. Motorized, bicycle and equestrian access and overnight camping should be prohibited. The trails to the bluffs and beaches should be linked to the Coastal Trail at reasonable intervals and should provide beach access where feasible. Finally, the access easements should be held by State Parks.*

- **Coastal Trail:** The proposed Coastal Trail would be located close to Highway One, which is a negative for hikers and clearly meant to accommodate the Hearst Corporation's desire to keep their private holdings more "private." The plan would limit use to 1/2 hour after sunrise to 1/2 hour before sunset.

***Requested Change:** The trail alignment should be relocated to be as close to the coast as feasible, accounting for public safety and protection of sensitive resources. The trail should be linked to access at San Simeon Point, Ragged Point, and Pico Cove. The CalTrans easement should provide for public access infrastructure such as restrooms, parking, and trash/recycling receptacles. The plan should not restrict use to 1/2 hour before sunset.*

- **East Side Access:** The proposal does not provide any access on the east side of Highway One. This is an obvious missed opportunity considering the proximity of the Hearst Ranch to Los Padres National Forest and to Fort Hunter Liggett. Such access can be accommodated without infringement on public views, without negative impacts on sensitive habitats, and without encroachment on potential private home sites.

***Requested Change:** The plan should be revised to include the historic public trail on the east side of the Highway. The access should be managed by State Parks and could be based on a permit system.*

- **Junge Ranch:** The proposal to transfer the Junge Ranch would provide the only opportunity for public camping. However, this opportunity would be lost if the state tax credit is not funded this year.

***Requested change:** The proposal should be revised to extend this opportunity so that the transfer may occur should funding be approved in the future.*

Prepared by Environmental Defense Center, Linda Krop, (805) 963-1622/455-2392

HEARST RANCH: RECOMMENDATIONS TO THE STATE COASTAL CONSERVANCY

I. Public Access

The proposed transaction would transfer land to the State and provide an opportunity to develop a Coastal Trail through the entire length of the Ranch property. However, the deal is problematic for the following reasons: (a) the land transferred would be subject to significant access restrictions included in the Scenic Easement; (b) the Coastal Trail alignment has not been determined (and currently is depicted along the Highway 1 corridor); and (c) the Hearst Corporation would severely restrict existing public access at the three areas that will remain in private ownership (San Simeon Point, Ragged Point and Pico Cove). In addition, the State's ability to plan for public access would be restricted by the Access Parameters and the requirement for approval by the Hearst Corporation. We recommend the following changes to the proposal:

Public Access Plan: The State should retain discretion to develop the Public Access Plan. The Plan should not be constrained by the Access Parameters, and should not be subject to approval by the Hearst Corporation.

State-owned property: Eliminate restriction prohibiting use 1/2 hour after sunrise and 1/2 hour before sunset. Require default of ownership to a public agency, not a private entity. If feasible, require full State ownership west of Highway 1. At a minimum, San Simeon Point and SS Cove should be owned and managed by the State as part of WRH State Park.

Coastal Trail: Clarify that DPR and SCC will determine alignment through a public process. Eliminate requirement for approval by the Hearst Corporation, and eliminate restriction prohibiting use 1/2 hour after sunrise and 1/2 hour before sunset.

San Simeon Point, Ragged Point and Pico Cove: Eliminate access restrictions including numbers of visitors, hours and days. Eliminate requirement for guided access. Consider mechanisms to ensure protection of natural resources, such as low-impact signs, clearly-marked trails, docent presence, etc. Make allowances for the Hearst Corporation to have exclusive use of their property for special events.

Public Access Support Facilities: Insure that parking areas, restrooms, and other necessary and appropriate access support facilities west of the Highway are allowed. Require development of support facilities to be minimal, low-impact, and sited outside the Highway 1 viewshed "where feasible."

Junge Ranch: Extend timeframe for approval of tax credit legislation. If not, require low-cost visitor-serving overnight accommodations at Old San Simeon Village.

San Carpoforo Trail: Require a study of the feasibility of preserving historic access along the San Carpoforo Creek, inland to the Polar Star Mine, and on through the Windy Point Gap to the Baldwin Ranch in Monterey County, then over the Coast Ridge Divide to San Antonio Mission.

II. Protection of Conservation Values

Exhibit 9.1: Public Comment—Letters

The proposed easement documents purport to protect conservation values, but lack the necessary detail or oversight to guarantee such protection and secure public confidence in the deal. In addition, several provisions in the documents appear to conflict with coastal plans and recommendations previously approved by the County and California Coastal Commission, especially with respect to development, resource protection, public access and accommodation of low-cost visitor-serving facilities.

Resource Management: Require approval of the Management Plan by WCB and DFG prior to funding (similar to the requirement for State approval of Baseline Conditions Report and Monitoring Protocols). Allow public review of the Baseline Conditions Report, Management Plan and Monitoring Protocols prior to funding. Include monitoring for west side easements.

Planning and Permitting Authority: Clarify that the documents do not affect the discretion or authority of the relevant land use agencies (e.g., County of San Luis Obispo and California Coastal Commission) over land use planning and permitting matters, or regulatory agencies (e.g., CDFG, RWQCB, etc) that are charged with protecting public trust resources. Delete presumption that ranching activities and hotel at OSSV will not impair conservation values.

Consolidate Home-Sites: Require true clustering of the home-sites, in order to avoid fragmentation of habitat and agricultural resources. Require retirement of the certificates of compliance prior to funding. Eliminate the “Fallback Alternative” that allows development anywhere on the Ranch.

Agricultural Intensification: Conversion of agricultural grazing areas to cultivated agriculture should also be sited appropriately and consolidated to avoid fragmentation of conservation values.

Resource Extraction: Eliminate provisions for oil and gas production, mining, and water transfers.

III. Enforcement

The easement documents are generally enforceable by the easement holders, which results in self-monitoring. The State can only indirectly enforce the terms of the easement, after the easement holders fail to do so.

Direct Enforcement by the State: The State, through the applicable agencies (State Coastal Conservancy, Wildlife Conservation Board, Department of Parks and Recreation, and Department of Fish and Game) should have direct enforcement authority as co-holder of the easements or third party beneficiary status.

Monitoring: The State, not Hearst, should decide the identity, frequency, and type of monitoring to occur on the Ranch.

Submitted 9/1/04 by the Environmental Defense Center and Sierra Club California

Exhibit 9.1: Public Comment—Letters

Friends of the Elephant Seal
P.O. Box 490
Cambria, CA 93428
(805) 924-1628



July 27, 2004

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger:

Our organization endorses the Hearst Ranch Conservation project as presented by the California Resources Agency on July 15 at a public meeting in Cayucos. We believe the project offers the best of both worlds – important marine resource protection and improved public access to the California coast.

The Friends of the Elephant Seal volunteer docent program was established in 1997 to provide education and promote stewardship at the elephant seal colony on a Caltrans easement on the Hearst Ranch next to Highway 1 in San Simeon. Each year our docents speak to about 100,000 visitors to this popular wildlife viewing area located in the shadow of Hearst Castle. From our experience, we know firsthand the importance of managed access at sensitive habitats.

Before our docents came on the scene, elephant seals were harassed daily by curious visitors who sometimes placed their children on the backs of these huge marine mammals or poked the animals with sticks to get better photos. Since our docent operation was established, animal harassment has diminished to almost zero. For that reason, Friends of the Elephant Seal has received numerous accolades, including a national Environmental Heroes Award.

Habitat protection and public enjoyment of open space is a balancing act that we believe this conservation easement will achieve, if it is funded now and properly managed in the future. Please do all you can as governor to make this important project a reality.

Sincerely,

Bill Johnson, president
Friends of the Elephant Seal

Cc: Mike Chrisman, Resources Agency Sam Schuchat, California Coastal Conservancy
Al Wright, Wildlife Conservation Board Senator Bruce McPherson
Assemblyman Abel Maldonado Senator Byron Sher Senator John Burton

RECEIVED
JUL 29 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters



Friends of the RanchLand

PO BOX 721 • CAMBRIA • CALIFORNIA 93428 • (805) 927-7219

1965 Emmons Road
Cambria, CA 93428
December 3, 2004

Sam Schuchat
Executive Officer
Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612-2530

Dear Mr. Schuchat:

Thanks to Steve Horn, I am invited and inclined to write to you about the proposed Hearst plan. As President of Friends of the RanchLand, over 800 voters who believe the plan as proposed is seriously flawed, let me tell you why. The Friends also are founding members of SLO Coast Alliance -- 33 groups with 22,000 members. Our "Blueprint for the Conservation of Hearst Ranch" was very well received in May, 2003.

The Hearst Corporation came out with its "Framework" in December, 2002. They asked our group and many others to endorse it without any details. Since then, it is very clear that both Hearst and the American Land Conservancy lied about the extent of development, the fracturing of wildlife habitat, the tremendous use of water which will result both from the estate construction and intensified agriculture. We could not endorse the Framework in 2002, and today it is far worse. In fact, the public remains better off today with no "conservation" of Hearst Ranch that we would be with the deal as proposed.

It has been a great disappointment to see State agencies falling into lockstep with Hearst to the detriment of the public good. Negotiators have given away the bank. The public funds are being "ripped off" so to speak. Here are some specifics:

- 1) There is proposed to be no State oversight and enforcement of the conservation easement on the east side of Hwy 1. The proposed easement holder is well over its head and essentially lets the fox guard the chicken coop.
- 2) Development of the 27 estates along with Hearst employee housing and then housing for farm and service workers is excessive. There will be no meaningful clusters as we were promised. Roads and building sites will crisscross most of the ranch, destroying wildlife habitat.
- 3) Intensified agriculture, up to several square miles in area, too, is excessive. The water requirements will be far too much for the streams to bear.
- 4) The preservation of a "working landscape" will not be possible under the proposed plan. A conservation easement over the Hearst Ranch is a sham.

-1-

Exhibit 9.1: Public Comment—Letters

Sam Schuchat, Continued
August 2, 2004

5) Options to drill for oil and natural gas as well as exploratory mining is outrageous under a conservation easement. Did the Bush Administration come up with that concept? What could negotiators have been thinking?

6) Public access to the east side of the highway is being denied despite the fact that there is a historic route, used for many hundreds of years by the Native Americans, by Portola in 1769, and others up the San Carpoforo drainage to San Antonio Valley.

7) Public access to the west side is being severely compromised by Hearst Corporation as they try to protect two of the most choice sites, San Simeon Point and San Carpoforo, for private beaches. Just do the math and you will find that the public will be excluded from those areas. Don't you have to follow the Coastal Act?

8) The questionable route of the California Coastal Trail through the Hearst Ranch is most disturbing. Forcing hikers to tangle with traffic -- just to protect private beaches -- is really unthinkable. Hikers should be able to have unrestricted use of a trail that truly is a trail and not just the shoulder of the Scenic Highway.

9) The appraisal which Hearst touts does not take into consideration the fact that much if not most of the land for which they are surrendering development rights could not in any way be developed anyway. It is hugely inflated. Besides, the public is not buying the land. The "purchase" is probably the world's most expensive conservation easement.

In sum, we believe that the proposed Hearst plan is a deal only for Hearst. They are acting like a prostitute -- selling their services, but holding on to the assets -- and negotiators have fallen into their trap. Someone must say "no" to private beaches, to the CCT on the road, and so many other possible sellouts.

Sincerely,



Doug Buckmaster
President

cc: Arnold Schwarzenegger, Governor
Al Wright, Wildlife Conservation Board
Mike Chrisman, Secretary of Resources
Peter Douglas, California Coastal Commission

RECEIVED

AUG 09 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters

Sep 08 04 04:02p

Liz Scott-Graham

8054749475

p. 2

Hearst Ranch Conservation NOW

1410 Cottontail Creek Rd.
Cayucos, CA 93430

September 2, 2004

Mr. Paul Morabito
Los Angeles County Sheriff's Department
4700 Ramona Blvd.
Monterey Park, CA 91754

Dear Mr. Morabito:

Public testimony at previous meetings and hearings on the Hearst Ranch conservation project has been an important part of the decision-making process for the respective boards. In each case, the format of taking public comment has been different. At one venue, a coordinated presentation was allowed for project opponents only, and at another the time limit for comments was changed mid-hearing. At both meetings, some folks left thinking the procedure was flawed. We understand that taking public comment equitably is time-consuming, but we all agree it is an essential part of our public process.

As we expect many people will want to testify at the September 15 Coastal Conservancy meeting and we realize that the comment period cannot continue indefinitely, we would suggest the following simple and fair approach. This would include collecting all the public speaker request forms prior to taking public testimony, shuffling them randomly, and then allocating whatever total time is available equally among all the speakers.

We believe this approach will let your Board begin its deliberations at a reasonable point and will respect the efforts of all those individuals who take the time to come a great distance to participate.

We appreciate your consideration.

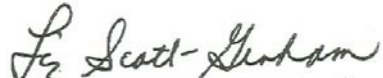
Sincerely yours,
HEARST RANCH CONSERVATION NOW



Bruce Gibson



Gary Felsman



Liz Scott-Graham

CC: Sam Schuchat, Executive Officer, SCC

Exhibit 9.1: Public Comment—Letters

Hearst Ranch Conservation NOW

c/o Bruce Gibson
1410 Cottontail Creek Rd.
Cayucos, CA 93430

August 28, 2004

Mr. Sam Schuchat
California Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612-2530

Dear Mr. Schuchat:

Hearst Ranch Conservation NOW (HRCN) is an independent group of individuals who support the Hearst Ranch conservation project. We believe this transaction is the most important conservation transaction in California, if not the nation. The project, as negotiated by the American Land Conservancy, the California Rangeland Trust, Hearst, and the California Resources Agency, meets and exceeds the standards of land conservation practice and should be funded now.

Enclosed please find three documents for your review as you prepare for the Coastal Conservancy hearing on September 15:

1. "Viewpoint and Response to Comments" first outlines the reasons for HRCN's position on the Hearst project and summarizes the widespread public support the project has garnered. In this document, we also respond to the objections raised by a vocal group who are stridently opposed to this transaction. Our analysis shows these objections can be thoroughly addressed with reference to the publicly-available transaction documents.
2. "Response to LAO Comments" reviews the August 3, 2004 letter from the Legislative Analyst's Office to the Joint Legislative Budget Committee. We disagree with a number of concerns and conclusions reached by the LAO and again believe all such issues are adequately addressed in the existing transaction documents.
3. "Response to Draft of the California Coastal Commission Staff Analysis" reviews recommendations released in a staff memo dated August 5, 2004. We again disagree with the CCC staff's conclusions and are concerned that they threaten the success of this important project. We also believe that the CCC lacks a statutory basis for providing such comments.

Exhibit 9.1: Public Comment—Letters

Page 2.

We would be happy to answer any questions you might have about HRCN or our analyses. We would also be interested in meeting with you before the September 15 hearing, and will be in touch to see if we can arrange a time. Thank you for your consideration.

Sincerely yours,
HEARST RANCH CONSERVATION NOW



Bruce Gibson
Co-chair

Enclosures

RECEIVED

SEP 01 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.

Hearst Ranch Conservation NOW is an independent group of individuals with varied and extensive land trust and environmental experience. We are not affiliated with the American Land Conservancy, the California Rangeland Trust, or the Hearst Corporation.

Our website is
www.hearstranchconservation.org

Gary Felsman
gfelsman@thegrid.net
805-783-6068

Contact Information
Bruce Gibson
bgibson@thegrid.net
805-995-3059

Liz Scott-Graham
esgraham@slonet.org
805-785-0248

Hearst Ranch Conservation NOW

**Hearst Ranch Conservation Project
Viewpoint and Response to Comments**

August 2, 2004



Hearst Ranch Conservation NOW is an independent group of individuals with varied and extensive land trust and environmental experience. We are not affiliated with the American Land Conservancy or the Hearst Corporation

Our website is
www.hearstranchconservation.org

Contact Information

Gary Felsman
gfelsman@thegrid.net
805-783-6068

Bruce Gibson
bgibson@thegrid.net
805-995-3059

Liz Scott-Graham
esgraham@slonet.org
805-785-0248

Hearst Ranch Conservation NOW

Viewpoint

We support implementation of the Hearst Ranch Conservation Project as negotiated between Hearst, the American Land Conservancy, the California Rangeland Trust and the State of California. We believe this project is the most important conservation effort in the state, if not the nation.

The provisions of this transaction will protect an astounding array of natural, scenic, and agricultural resources and will provide irrevocable public access to 18 miles of pristine coastline. The legal provisions of this project meet and exceed current standards of land conservation practice and clearly protect the public interest. The transaction documents are available at the California Resources Agency website, www.resources.ca.gov.

The project represents an outstanding value, with a transaction price of approximately 41% of appraised value. The state-commissioned appraisal has been independently reviewed and appears to represent a conservative estimate of value (see Resources Agency website).

The Hearst Ranch Conservation Project has widespread, enthusiastic support within San Luis Obispo County and throughout the state. The high level of support is exhibited by,

- Personal endorsements by elected officials: Congressman Bill Thomas, State Sen. Bruce McPherson, Assemblyman Abel Maldonado, SLO County Supervisors Bianchi, Pinard, Achadjian, Ovitt, and Ryan, Former Supervisors Coy, Blakely, SLO Mayor Dave Romero, Paso Robles Mayor Frank Mecham, and others;
- Unanimous votes to approve Caltrans funding for the project by the SLO Council of Governments and the California Transportation Commission;
- The overwhelming approval shown at the state-sponsored informational meeting held July 15 in Cayucos. (Written comments from that meeting were compiled by the State Coastal Conservancy and are available at <http://www.hearstranchconservation.org/quotes.html>);
- Endorsement of the project conservation framework by hundreds of individuals and dozens of public and private organizations, including a unanimous endorsement by the SLO Chamber of Commerce Board. The complete list is available at www.hearstranchconservation.org.

Protection of the Hearst Ranch must be accomplished NOW. This project presents a unique opportunity of timing and value that we must not lose. We urge you to support this effort.



Oakland

San Francisco

Alameda

San Leandro

Daly City

Haywa

Hearst Ranch

128 Square miles -- 82,000 acres
2.5 times larger than San Francisco
27 homesites

City of San Francisco

51 Square miles -- 32,800 acres
346,527 housing units

San Mateo

Redwood City

Half Moon
Bay

Hearst Ranch Size Comparison to City of San Francisco

- San Francisco
City Limits
(32,800 acres)
- Hearst Ranch
Equivalent Area
(82,000 acres)



Hearst Ranch Conservation NOW

Response to Comments

Along with the overwhelming public support voiced for the Hearst Ranch Conservation Project, various objections have been raised repeatedly by a few strident opponents. These complaints have not abated with the recent release of project documents. We are concerned that these objections and attempts to delay public hearings threaten the project's success. If the already-extended option agreement between Hearst and the American Land Conservancy expires, the project faces an uncertain future at best, and could likely be terminated.

After review of the transaction documents, we believe that most expressed criticisms are based either on misleading interpretations, an incomplete understanding of the transaction details, or a basic misunderstanding of conservation transactions between land trusts and willing land owners. In the table below, we summarize the most common objections and our response to each.

Specific transaction document references (e.g., Independent Appraisal Review (Tab 2)) relate to document links on the California Resources Agency web page, www.resources.ca.gov/hearst_ranch_docs_toc.html/.

General Issues

| Objection | Response | Reference(s) |
|--|---|---|
| The appraised value is inflated because of faulty assumptions as to the number of legal parcels (certificates of compliance have just created "paper lots"). | <ul style="list-style-type: none">• Certificates of compliance have been issued by SLO County and accepted by the Coastal Commission. These certificates legally verify the existence of the affected parcels. Use of those parcels is now governed by the same regulations as for any other legally created parcel in that land use category.• The state-commissioned appraisal has been confirmed by independent review. | Action by SLO County Dept. of Planning and Building Independent Appraisal Review (Tab 2) |
| The appraised value is inflated because the Coastal Commission would never allow development on every parcel in the Coastal Zone. | <ul style="list-style-type: none">• The Coastal Commission can condition development projects, but cannot prevent them if they meet the County's Local Coastal Plan. A house was recently completed in the viewshed of Highway 1 near the Piedras | Independent Appraisal Review (Tab 2) |

| Objection | Response | Reference(s) |
|--|--|--|
| | <p>Blancas motel.</p> <ul style="list-style-type: none"> • Most parcels (148 of 271) are outside the Coastal Zone and thus outside the Commission's jurisdiction. Two houses are allowed on each of these parcels. • Commission staff had input to the state's appraisal. See above. | |
| <p>For \$95 million, the public should get more access.</p> | <p>Compensation is determined on the land value lost because of restrictions on land use. Appraised values here do not include any sale of access rights – those rights are being donated. Further, the \$95 million Hearst will receive is 41% of the appraised value of what they are giving up.</p> | <p>Independent Appraisal Review (Tab 2)</p> <p>Terms of Caltrans TEA funding</p> |
| <p>In general, this is not a good deal for the people of California.</p> | <ul style="list-style-type: none"> • This transaction provides more resource protection, under more stringent procedures, at less cost per acre than numerous projects funded previously by state agencies. • A comparison of recent conservation projects is included as Attachment 1. • Extensive resource protection for 82,000 acres of extraordinary coastal land will be secured at an average cost of \$1162 per acre, including putting 13 miles of spectacular coastline into public ownership. That is a good deal. | <p>This document, Attachment 1</p> |

West Side Issues

| Objection | Response | Reference(s) |
|---|--|--|
| Public access to the shoreline will be diminished by the deal. | <ul style="list-style-type: none"> • Absolutely not. Current access across Hearst land is tolerated subject to Civil Code Sec. 813, and can be revoked at any time, without notice and without cause. The deal provides irrevocable public access on Hearst retained land and tolerated access will continue. The balance of over 13 miles of coastline goes into public ownership. • See detailed analysis of west side public access, Attachment 2. | <p>State Parks Public Access Easement (Tab 4C)</p> <p>This document, Attachment 2.</p> |
| Access parameters and management plan are not finalized – access could be reduced. | <ul style="list-style-type: none"> • Highly unlikely. WCB staff approval is based on the minimums listed in the public access easement. State agency staff will need to approve the final access parameters prior to close and won't tolerate reduction. | State Parks Public Access Easement (Tab 4C, Exhibit D) |
| Guests at Old San Simeon Village (OSSV) Inn will get priority on limited access to San Simeon Point. | <ul style="list-style-type: none"> • Highly unlikely. No provision for such priority is made in the access parameters. • Hearst could allow anyone to access their property outside the access parameters, as long as resources are not impaired. | State Parks Public Access Easement (Tab 4C, Exhibit D) |
| <p>Impacts of OSSV Inn are unacceptable.</p> <p>Could Hearst put private cabanas on the sandy beach at San Simeon Cove?</p> | <ul style="list-style-type: none"> • The deal does not guarantee the construction of the OSSV Inn. • All development at OSSV will be subject to normal permit approval process by SLO County and the Coastal Commission, where all impacts will be addressed. • It's virtually certain that the Coastal Commission would require a public access easement on the sandy beach as a condition of development – no structures would be allowed except to facilitate public access. | |

| Objection | Response | Reference(s) |
|---|---|--|
| Coastal Trail on Hearst retained land is unacceptably close to the highway. | <p>A book published by Coastwalk shows the Coastal Trail on nearly the same alignment (pages 100 and 104 are included here as Attachment 3).</p> <ul style="list-style-type: none"> • In addition, relative to the Coastwalk trail guide, more of San Simeon Point will be available to hikers via 2 miles of spur trails. | <p>State Parks Public Access Easement (Tab 4C, Exhibits D1A-C)</p> <p>Hiking the California Coastal Trail, Vol. 2, by Bob Lorentzen and Richard Nichols, 2000</p> <p>This document, Attachment 3</p> |

East Side Issues

| Objection | Response | Reference(s) |
|---|--|--|
| There is no publicly available inventory of resources to be protected. | Yes, there is an extensive listing in the public documents. | Resources Information Summary (Tab 5A) |
| Conservation values have not been adequately defined or disclosed. | East side values are extensively listed. | East Side Conservation Easement (Tab 3C, pg 3-6) |
| The Baseline Inventory is not public. There's no State oversight to confirm the condition of the land. | <ul style="list-style-type: none"> • The Wildlife Conservation Board will review and approve the Baseline Inventory before funding the project. • Baseline Inventories are not public documents, because they contain confidential material about private property. They are a tool used by land trusts to fulfill their responsibilities for easement enforcement. | <p>WCB Grant Agreement (Tab 3B, pg 1)</p> <p>This document, Attachment 1</p> |
| <p>The management plan is not complete, it is not public, and Hearst gets to write it.</p> <p>Where is the State oversight?</p> | <ul style="list-style-type: none"> • The East Side Conservation Easement by itself provides protection for the resources to be conserved. • Many, if not most, conservation easements do not have required management plans (see Attachment 1). • The management plan addresses <i>how</i> resources are to be protected, not <i>what</i> is to be protected. Hearst should be allowed to manage their land in a reasonable way as long as they achieve the requirements of the easement. • The Wildlife Conservation Board will review and comment on the management plan (and any amendments) before the California Rangeland Trust approves it. | <p>East Side Conservation Easement (Tab 3C)</p> <p>This document, Attachment 1</p> <p>WCB Grant Agreement (Tab 3B, pg 4)</p> |
| Easement monitoring lacks state oversight. A State agency should hold or co-hold the easement. | <ul style="list-style-type: none"> • Wildlife Conservation Board (WCB) will review monitoring reports on the easement. • WCB requires the easement holder to conduct audits of the monitoring process. • It would be a bad precedent for the State to have direct monitoring or enforcement powers. Private non-profit land trusts have long worked with private | WCB Grant Agreement (Tab 3B, pg 3 and 4) |

| Objection | Response | Reference(s) |
|--|---|---|
| | land owners to do easement monitoring and enforcement. Private land owners would be unlikely to accept State regulatory agencies as holders of their easements and land conservation opportunities would be lost. • State funded voluntary easements don't require direct state involvement. | This document, Attachment 1 |
| No public access is provided on the east side. | • Public access would conflict with operations on the working cattle ranch. • Public access has not been required in other publicly funded easements on working landscapes. | This document, Attachment 1 |
| Owner home sites are not clustered and they have unacceptable impacts. | • It's a big stretch to suggest that the proposed allowable home sites are not grouped in clusters. • The proposed sites conceptually meet the standards of a SLO County proposed ag cluster ordinance. • All home sites must meet easement requirements to avoid impairment of conservation values. | East Side Conservation Easement (Tab 3C, Exhibits D-1A and H) SLO County Dept of Planning and Building |
| Employee housing impacts are too great. | • Employee housing units must be sited according to strict easement requirements. • This housing is a necessary part of ranch facilities. The alternative would be to house employees in remote, expensive urban areas and incur traffic and other impacts. • Employee housing units cannot be separately conveyed or used by non-employees. • The easement allows up to 15 employee housing units. Current regulations would allow 1 unit per 320 acres, or a total of 250. | East Side Conservation Easement (Tab 3C, pg 16) |
| Hearst gets the money without retiring any parcels. | • Hearst cannot build new homes or convey parcels until the terms of the easement are met. • There will never be more than 27 new owner homes and there will never be more than 27 owner homesite parcels conveyed. As these homes are permitted, certificate parcels will be retired. | East Side Conservation Easement (Tab 3C, pg 9 and Exhibit H) |

| | | |
|--|---|---|
| Hearst can sell the new owner homes to anyone. | This does not matter – the conservation easement will still be in force, including the provisions for common management of the easement area. | East Side Conservation Easement (Tab 3C, pg 29) |
| Hearst can transfer water off the property. | Such transfers are subject to specific terms and conditions, including protection of conservation values and require specific permission of the easement holder and notice to WCB. | East Side Conservation Easement (Tab 3C, pg 18) WCB Grant Agreement (Tab 3B) |
| Too much ag intensification is allowed. It will degrade resources. | <ul style="list-style-type: none"> • Ag intensification is allowed on less than 4% of the Ranch. These ag uses are subject to protection of conservation values, including water supplies. • Orchards and vineyards will be located outside the Highway 1 viewshed and are restricted to less than 1% of the Ranch. • The owner of productive ag land should be allowed flexibility in their ag operations. | East Side Conservation Easement (Tab 3C, pg 15) |
| The California Rangeland Trust (CRT) is not capable of enforcing the easement against the Hearst Corp. | <ul style="list-style-type: none"> • The CRT is an established land trust that follows the standards and practices of the Land Trust Alliance and is easement holder for many successful state funded easements. • CRT will receive an endowment for monitoring and enforcement of the easement. • The Wildlife Conservation Board (WCB) will require CRT to prove it has sufficient funds to execute its responsibilities. WCB can require assignment of the easement to another entity if CRT fails to perform adequately. | WCB Grant Agreement (Tab 3B) |

Hearst Ranch Conservation NOW

ATTACHMENT 1: Comparison of Recent Coastal Conservation Transactions

Summary

After reviewing the transaction documents for the Hearst Ranch Conservation Project, we conclude that this deal provides an outstanding level of resource protection and a tremendous value. Furthermore, the legal provisions of the transaction meet and exceed the standard practice applied to publicly funded projects. To illustrate the quality of the Hearst project, we compare it to a number of recently completed transactions that were funded by State agencies. Here, we summarize the comparisons in two tables, attached.

Table 1 compares recent coastal fee acquisitions to the West Side Hearst transaction. Note that the per acre cost of protection in the Hearst project is an order of magnitude less than those of recent high-profile acquisitions in southern California (Ahmanson, Playa Vista, and the proposed Bolsa Chica, none of which include any shoreline). Compared to recent acquisitions in SLO County (Estero Bluffs, East-West Ranch, and Sea West), the Hearst project also has the lowest per acre cost.

Table 2 compares recent easement acquisitions to the Hearst East Side and the total Hearst transaction. Compared to local easement projects (CT Ranch and Maino) the Hearst project has the lowest per acre cost and most stringent management plan requirements. Also included are 3 large inland easement projects protecting working landscapes (Varian, Bear Valley, and Bridgeport). The per acre cost of these easements is certainly much lower than those for coastal projects, but they are included to show the standard level of access and management planning for such properties. Compared to other projects, note that the standard public process for funding has been augmented by extra disclosures and a public workshop for the Hearst transaction. Similarly, the extent of agency oversight after closing will be greater for the Hearst project.

COMPARISON OF RECENT CONSERVATION PROJECTS

TABLE 1: FEE ACQUISITIONS

| Project | Date | Funder(s) | Fee holder | Acreage | Coastline (miles) | Price (million) | Cost/acre | Appraisal disclosure prior to closing |
|--|------|------------------------------------|-----------------------|---------|-------------------|-----------------|-----------|---------------------------------------|
| Estero Bluffs | 2000 | State and Private | DPR | 355 | 3.5 | \$7.5 | \$21,127 | No |
| East-West Ranch | 2000 | State, Caltrans TEA, CCSD, Private | CCSD | 420 | ~1 | \$11.0 | \$26,190 | No |
| Sea West | 2003 | State | State | 746 | ~1 | \$14.5 | \$19,437 | No |
| Ahmanson Ranch | 2003 | State | State | 2800 | none | \$150.0 | \$53,571 | No |
| Playa Vista | 2003 | State | State | 483 | none | \$140.0 | \$289,855 | No |
| Bolsa Chica | 2004 | State | State | 103 | none | \$65.0 | \$631,068 | No |
| Hearst Ranch (fee only-see Note 1) | 2004 | Caltrans TEA | State Parks, Caltrans | 1579 | 13 | \$23.0 | \$14,566 | Summary and review disclosed |
| Hearst West Side (fee and easement-see Note 2) | 2004 | Caltrans TEA | State Parks, Caltrans | 2192 | 18 | \$23.0 | \$10,493 | Summary and review disclosed |

Note 1: For comparison purposes, this entry assumes \$23 million was spent only on land transferred in fee to the State (includes 832 acre public ownership area, 117 acre West Side Junge, and 2 acres adjoining Visitors Center conveyed to State Parks and 628 acres of realignment area conveyed to Caltrans). Tax credit compensation for the Junge Ranch acreage is included in Table 2. In the actual deal, \$23 million buys the scenic protection easement and the 1579 acres are gifted to the State.

Note 2: This entry calculates the per acre cost of protecting land west of Highway 1, whether by fee transfer or conservation easement. Property includes all that described in note 1, plus 613 acres of land (Pico Cove, Ragged Point and San Simeon Point) retained by Hearst, subject to scenic protection and public access easements. Development rights on all 2192 acres will be permanently

COMPARISON OF RECENT CONSERVATION PROJECTS

TABLE 2: EASEMENT ACQUISITIONS

| Project | Date completed | Land Trust | Funder(s) | CE holder | Acreage | Price (million) | Cost/acre | Public access right | Potential homesites before/after % reduced | Parcels before/after % reduced | Management plan required? | Public disclosures See Note 2 |
|---|----------------|------------|-----------------------|-------------------------------------|---------------|-----------------|-----------|--|--|--------------------------------|---|--|
| Coastal projects | | | | | | | | | | | | |
| CT Ranch (Cambria) | 2000 | TNC | Caltrans TEA | TNC | 1454 | \$4.5 | \$3,095 | 8 days/year; 40 visitors each | 22 / 6 -72 % | 22 / 10 -55 % | No | Standard process |
| Maino (inland of Morro Bay) | 2003 | Bay Fndtn | State, TNC, Bay Fndtn | Bay Fndtn | 1860 | \$2.2 | \$1,183 | No | 7 / 3 -57% | 7 / 3 -57% | No, unless ranch transfers outside family | Standard process |
| Hearst Easement (East Side) | 2004 | ALC | State | CRT | approx 80,000 | \$72.0 | \$900 | 4 non-profit events/year | 412 / 29 -93% | 271 / 29 -89% | Yes, within 1 year | Standard process, plus transaction doc and appraisal review released for public workshop before hearings |
| Hearst Ranch Overall (fee and easement) | 2004 | ALC | State, Caltrans TEA | CRT, Caltrans, State Parks, and ALC | 81777 | \$95.0 | \$1,162 | Coastal Trail (18 mi); 13 miles of coastline in public ownership; limited public access on balance of west side; non-profit events | 412 / 29 -93% | 271 / 30 -89% | Yes, within 1 year; public lands have separate plan | Standard process, plus as above. |
| Inland projects (see Note 1) | | | | | | | | | | | | |
| Varian (SE Monterey County) | 2000 | TPL | State | CRT | 17000 | | | No | | | No | Standard process |
| Bear Valley Jacalitos (Kester) | 2003 | CRT | State | CRT | 10761 | | | No | | | Yes, within 6 months, but only if funding provided | Standard process |
| Bridgeport (East Sierra) | 2003 | ALC | State, Caltrans TEA | CRT | 7000 | | | No | | | Yes, within 5 years | Standard process |

Note 1: Overall, inland projects have substantially lower cost per acre due to higher value of coastal land. For this reason, cost figures are not provided. Entries are included to compare easement requirements of access, management, disclosure, and oversight.

Note 2: In the standard process, a) a transaction summary is released prior to public hearings legally required before funding; b) appraisal documents released after closing; and c) baseline inventory, management plan (if required), and monitoring reports are not released.

Note 3: In the standard protocol, agencies require a) review and (in some cases) approval of any management plan; b) annual monitoring and enforcement by easement holder (not agency); and c) penalties for default.

Note 4: For the Hearst project, WCB will also a) review and approve monitoring protocols; b) review and comment on monitoring reports; c) require audits of easement holder performance; and d) force reassignment of easement (with penalty) for non-performance.

Hearst Ranch Conservation NOW

ATTACHMENT 2: Public Access Analysis of West Side Parcels

Hearst Ranch West Side Access Comparison



**Prepared By
Gary Felsman and Bruce Gibson
July 26, 2004**

Introduction

This document has been prepared to help the public better understand the increased access to the West Side of the Hearst Ranch as a result of the Hearst Ranch Conservation Project.

We have taken the current access parameters west of Highway 1 and compared them to what will be allowed under the new conservation easement negotiated between the State of California, American Land Conservancy, and Hearst.

The information gathered clearly shows that access will be increased and is not revocable under this conservation easement.

This document contains the following information

West Side Access Map Northern Section – This map shows all the access from San Carpoforo Beach to the North to just above the Elephant Seal Rookery.

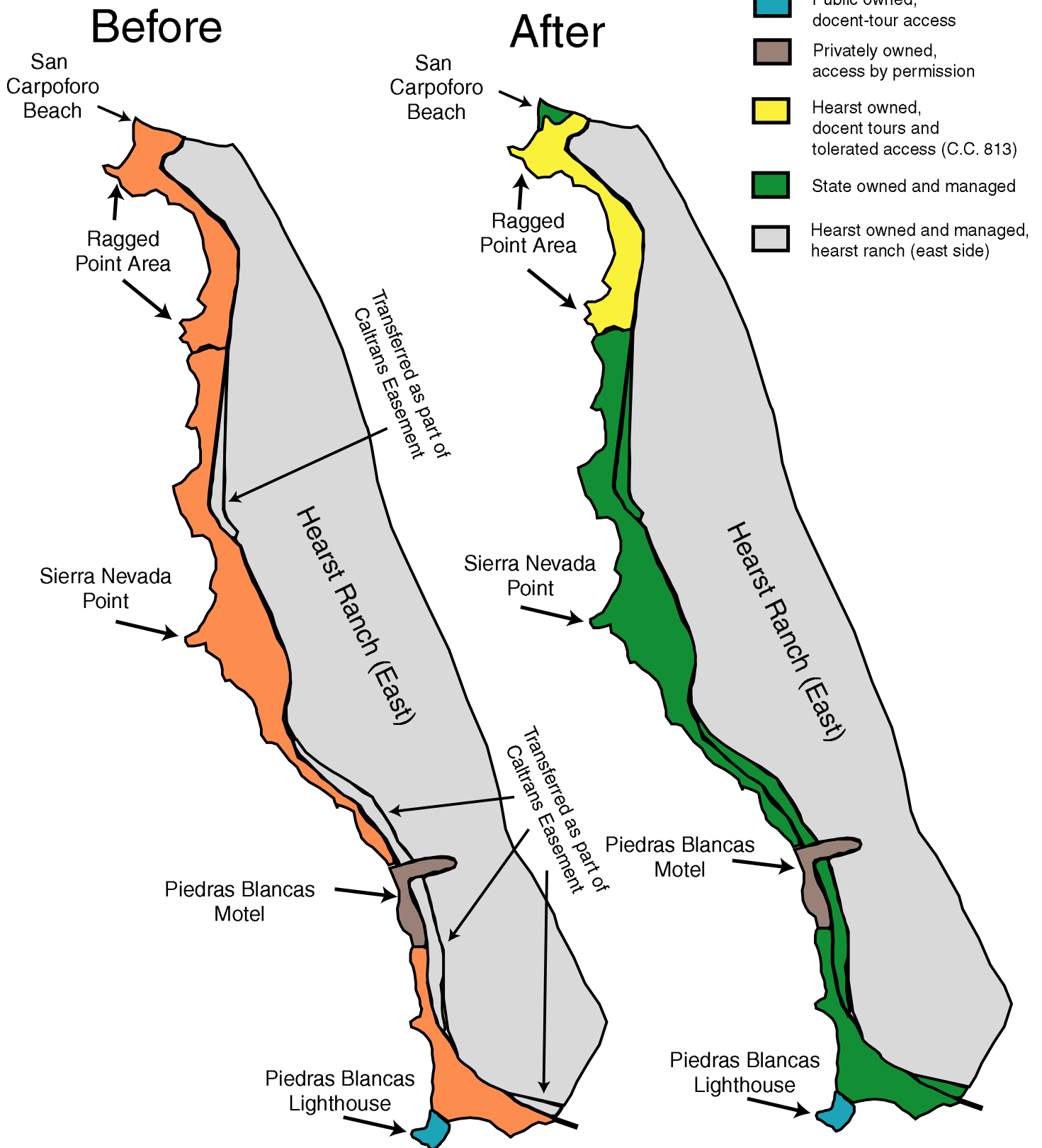
West Side Access Map Southern Section – This map shows all the access information from the Elephant Seal Rookery south to Junge Ranch.

West Side Access Comparison Table – This table gives a detailed comparison of the before and after access along the west side of the Hearst Ranch.



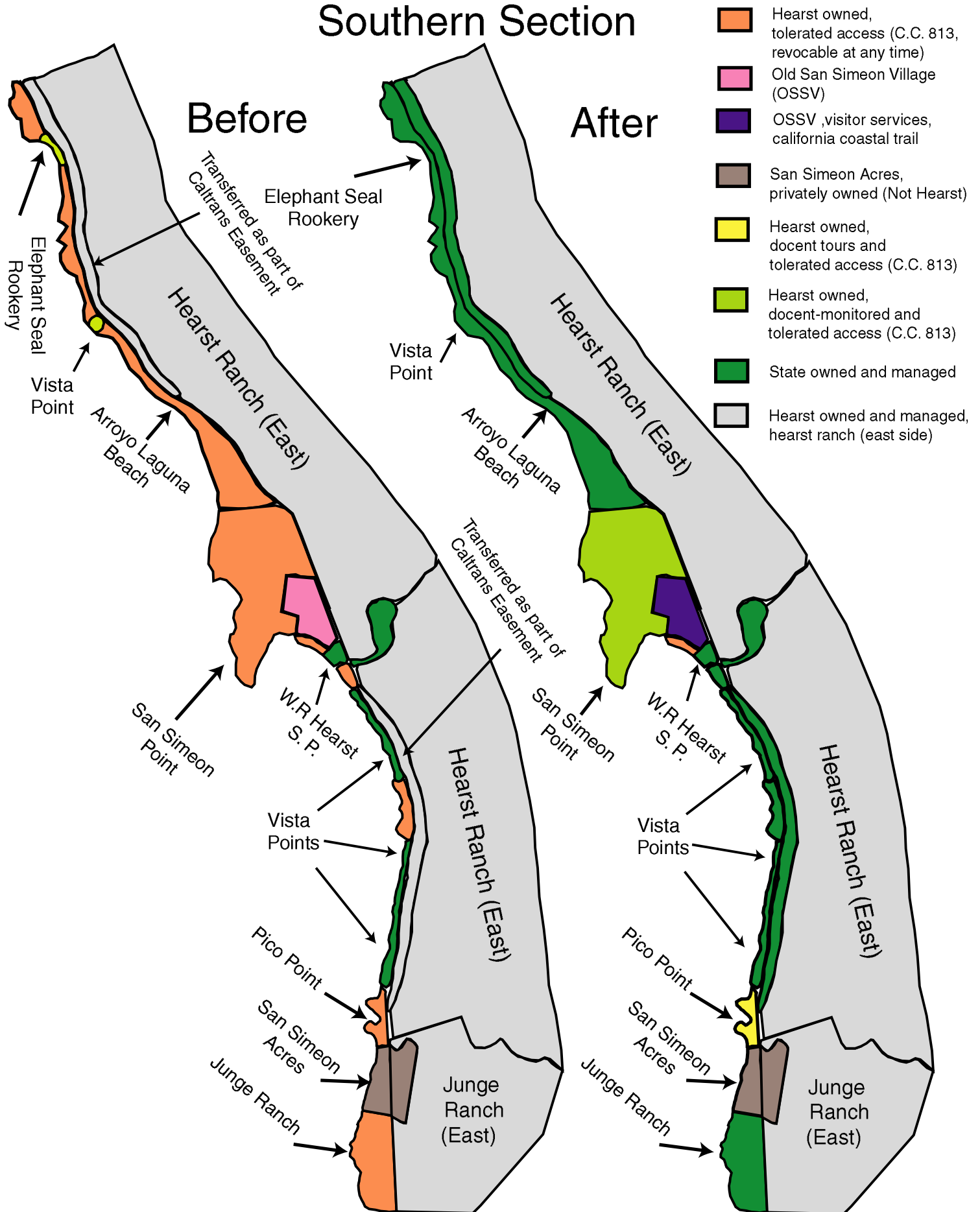
West Side Access Comparison

Northern Section



West Side Access Comparison

Southern Section



Hearst Ranch

West Side Access Comparison

| Area | Before | After |
|--|---|--|
| Junge Ranch, South of San Simeon Acres | <ul style="list-style-type: none"> • Hearst owned • Tolerated access subject to California Civil Code 813 (CC 813), revocable at any time | <ul style="list-style-type: none"> • Owned and managed by State Parks • Coastal Trail¹ allowed • Other access and possible camping per State Parks management plan |
| Pico Point (15 acres) | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time. • Additional access by quarterly docent-led walks (not revocable) • California Coastal Trail² allowed. (not revocable) |
| Pico Point to William Randolph Hearst State Beach | <ul style="list-style-type: none"> • Hearst-owned parcels allow tolerated access (CC 813), revocable at any time • Remainder owned by Caltrans • 3 Vista Points, unrestricted daytime access per Caltrans easement, no camping | <ul style="list-style-type: none"> • Owned and managed by State Parks • Coastal Trail¹ allowed • Other access per state management plan • 3 Vista Points, unrestricted daytime access per Caltrans easement, no camping |
| William Randolph Hearst State Beach | <ul style="list-style-type: none"> • Owned and managed by State Parks | <ul style="list-style-type: none"> • Owned and managed by State Parks |
| San Simeon Point, (370 Acres) | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time • Usage approx. 20 – 30 per day | <ul style="list-style-type: none"> • Hearst owned • Proposed management by State Parks per state-prepared management plan. Plan to provide docent-monitored access of 100 people per day during daylight hours. This will be monitored and is subject to change based on resource protection. Several exemptions for education and other special programs (not revocable) • California Coastal Trail² allowed (not revocable) • During plan development, during non-daylight hours, and in areas not covered by State Parks plan, tolerated access (CC 813), revocable at anytime |

| Area | Before | After |
|--|---|---|
| San Simeon Point parcel to Arroyo Laguna Beach | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time • Usage approx. 20 – 50 per day on weekends | <ul style="list-style-type: none"> • Owned and managed by State Parks • Coastal Trail¹ allowed • Other access per State Parks management plan |
| Arroyo Laguna Beach to Piedras Blancas Light House | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time | <ul style="list-style-type: none"> • Owned and managed by State Parks • Coastal Trail¹ allowed • Other access per State Parks management plan |
| Highway 1 Vista Point #3 and #4 (Includes Elephant Seal Rookery) | <ul style="list-style-type: none"> • Hearst owned • Access during daylight hours per Caltrans easement, managed for Caltrans by Friends of the Elephant Seals | <ul style="list-style-type: none"> • State owned • Access during daylight hours managed by Friends of the Elephant Seals |
| Piedras Blancas Lighthouse (38 Acres) | <ul style="list-style-type: none"> • Managed by BLM. Occasional docent led tours | <ul style="list-style-type: none"> • Managed by BLM. Occasional docent led tours |
| Piedras Blancas Lighthouse to Piedras Blancas Motel (Cappuccino Cove) | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time | <ul style="list-style-type: none"> • Owned and managed by California State Parks • Coastal Trail¹ allowed • Other access per State Parks management plan |
| Piedras Blancas Motel | <ul style="list-style-type: none"> • Privately owned (not Hearst). • Revocable controlled access granted to public | <ul style="list-style-type: none"> • Privately owned (not Hearst) • Revocable controlled access granted to public |
| Piedras Blancas Motel to a mile south of Ragged Point Bluff (San Carpoforo Creek) | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time | <ul style="list-style-type: none"> • Owned and managed by State Parks • Coastal Trail¹ allowed • Other access per State Parks management plan |
| Ragged Point Bluff, (229 Acres) | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time | <ul style="list-style-type: none"> • Hearst owned • Tolerated access (CC 813), revocable at any time • Additional access by quarterly docent-led walks (not revocable) • California Coastal Trail allowed² (not revocable) |
| San Carpoforo Beach | <ul style="list-style-type: none"> • Small section owned by USFS, balance privately owned (Hearst and other) • On Hearst-owned portion (southern end), access tolerated (CC 813), revocable at any time | <ul style="list-style-type: none"> • Publicly owned, except northernmost section (private, not Hearst) • Access to be determined per management plan |

| Area | Before | After |
|--------------------------------|---|--|
| Beaches owned by public | <ul style="list-style-type: none"> • William Randolph Hearst State Beach | <ul style="list-style-type: none"> • William Randolph Hearst State Beach • 30 other beaches, including: Arroyo Laguna (renowned for wind and kite surfing), Little Pico Creek, Pt. Sierra Nevada, Arroyo de la Cruz, Arroyo del Corral, and the elephant seal beaches near Pt. Piedras Blancas • Access per State Parks management plan |

Notes:

1. Alignment of California Coastal Trail will be dependent on overall State Parks management plan which must go through the normal State Parks planning process and meet CEQA requirements.
2. A corridor has been defined for the California Coastal Trail along Hearst retained property

Hearst Ranch Conservation NOW

ATTACHMENT 3: Trail Maps from Coastwalk Book on the
California Coastal Trail

Hearst Ranch Conservation NOW

ATTACHMENT 4: Editorial Comments & Press Coverage

San Diego Union Tribune
San Luis Obispo County Tribune
Los Angeles Times

UNION-TRIBUNE EDITORIAL

Hearst Ranch

Meddling threatens deal for precious land

July 28, 2004

A rugged stretch of central coastline in San Luis Obispo County offers one of the most scenic panoramas in California. It would be a terrible shame if meddling by the staff of the state Coastal Commission jeopardized a historic agreement to preserve tens of thousands of acres of this untamed shoreline.

At issue is a tentative deal reached between the state and the heirs of early 20th century newspaper titan William Randolph Hearst.

Under the accord, the state would acquire 13 miles of pristine beaches, and development would be banned on 80,000 acres of surrounding property. Today the land is a privately owned reserve known as Hearst Ranch, where the late publishing baron built his prized Hearst Castle. That monument to excess at San Simeon was donated to California by Hearst's heirs in 1957 and remains a popular tourist draw as a state park.

The value of the land transfer and forfeited development rights is pegged at \$230 million by an independent appraiser hired by the state. In exchange for giving up the land, owners of the Hearst Ranch would receive an \$80 million payment from the state, along with \$15 million in tax breaks – a total amount equal to less than half of the appraised value. The state would pay for the project through voter-approved park and water bonds.

What could be a better deal for Californians? A magnificent swath of coast would be sheltered from development forever, at a fraction of the cost of its appraised value. Five years in the making, with participation by a plethora of interest groups, the proposed accord is a model of land conservation through negotiation and philanthropy rather than through litigation and government regulation.

But it's not good enough for the Coastal Commission's staff, long known for its obstructionist activism. Under executive director Peter Douglas, who assails the Hearst Ranch initiative as a "bait and switch" scam, the staff has taken steps behind the scenes to undermine it.

Six years ago, the Coastal Commission derailed Hearst's plans to build a golf course and 650-room resort on the site. So now the staff is taking aim at Hearst again, but it is doing so in a manner that is outside its legal authority.

Under the preservation agreement, Hearst would retain greatly scaled-down development rights on a portion of its land, including the opportunity to build a 100-room inn and 27 homes. The Coastal Commission would retain its authority to approve or reject such a project

in the future if the deal goes through. But the panel has no legal veto over the proposed agreement between Hearst and the state.

All the same, commission staff members have sought to influence the independently appraised evaluation of the deal so as to lower its value. An official of the state Department of Transportation, which paid for the appraisal, says a Coastal Commission staffer improperly telephoned state officials in a futile bid to drive down the land's evaluation.

The Hearst Ranch initiative may be the last chance to save this treasured stretch of coast from inexorable development. It is a tremendous deal for the environment and a tremendous deal for the taxpayers. The Coastal Commission staff should stop its grudge-match meddling.

Posted on Wed, Jul. 21, 2004

Editorial/Opinion of The Tribune

A remarkable commitment

The Tribune

It's difficult keeping up with the detractors of the Hearst Ranch conservation deal. Mostly comprised of a small group of local Sierra Club executive council members, these folks have changed their concerns and objectives about the deal so many times that their credibility is pretty well shot.

Initially they wanted to overlay negotiations with their own blueprint of demands for the deal. That was pretty well ignored.

Then they wanted the 82,000-acre ranch bought lock, stock and barrel. The only problem was that Hearst Corp. wasn't looking to sell the ranch.

Then they hit upon what a taxpayer boondoggle the deal was without some kind of public access to the east part of the ranch. Never mind that such a provision forced on a landowner would chill other ranchers from seeking conservation easements for their property -- placing pressure for future development on such parcels.

After talking with noted area environmentalists such as Gary Felsman and Liz Scott Graham, we've gathered some points to consider about this most remarkable commitment being made by Hearst, the American Land Conservancy and the state of California:

- It protects more California coastline -- and provides more public access to the coast -- than any other single transaction in California history.
- Over 129 square miles (82,000 acres) of views and unique biota are protected -- forever -- by this transaction.
- Parcel maps on the Hearst Ranch currently allows some 400 homes. The deal, however, forever restricts homesite development to 27, which will be clustered in areas outside of the view of Highway 1 and Hearst Castle.
- While more than 10,000 acres have been historically cultivated, no more than 3,000 acres of the ranch can ever be used for agricultural purposes, including no more than 300 acres for vineyards and 300 acres for orchards. The complaint that such limited ag use will dry up North Coast creeks is patently absurd.
- Currently, visitors have access to the coast by the good graces of Hearst, and it's revocable at any time, without notice and without cause. In addition to allowing continuation of the current revocable access program, the project guarantees new coastal access to a continuous, 20-mile coastal trail and permanent access to some 30 new beaches that will be owned by the state.
- That new access is being provided without using public money. Funding for the ranch's coastal areas is provided by Caltrans money and landowner donation. Because Caltrans money can only be used for scenic protection, all public access guarantees are being donated by Hearst to the state.
- Existing access often involves jumping fences and tough terrain. The deal will open the coastline to the elderly, disabled and young children. Does that sound like less access as charged by detractors?
- Is the cost -- \$57 million in state bond money and \$15 million in state tax credits, along with \$23 million in federal dollars -- a boondoggle? Not when you consider that the state's independent appraisal places the value of the deal at \$230 million. What that means is that Hearst is eating the difference and

making a gift of some \$135 million to make the deal a reality.

It's apparent that some members of the Sierra Club will find fault with this deal no matter what's laid on the table. If their motives are of fiscal watchdogs demanding access for taxpayer investment, then we'd like to see where anyone has bought more unspoiled California coastline -- with nonrevocable access for perpetuity -- for less.

Los Angeles Times

Hearst Land Plan Gains Support

Residents welcome proposal to allow hotel, 27 homes in exchange for coastal land preservation.

By John Johnson, Times Staff Writer

CAYUCOS, Calif. — Overflowing a beachfront veterans hall Thursday night, a generally enthusiastic crowd of 400 people heard the details of a plan to preserve the Hearst Ranch and bring to an end three decades of public wrangling over the fate of one of the state's most beguiling stretches of coastal real estate.

It was the first airing of a proposal that would transfer 13 miles of beaches to the state and bar development on most of the rest of the ranch. In return, the Hearsts would receive \$95 million and rights to build a 100-room hotel, 27 homes scattered across 200 acres, 15 units of employee housing and 3,600 acres of orchards, vineyards and row crops.

Meetings on previous proposals that included a much larger resort complex, a 27-hole ocean-side golf course and riding stables were frequently noisy and angry affairs. By contrast, the mood Thursday was almost celebratory as San Luis Obispo County residents welcomed the prospect of a final resolution to the Hearst Ranch saga.

"The fact that we'll never have to fight another battle on the ranch is worth the price of admission," said Liz Scott-Graham, 61, a San Luis Obispo attorney and longtime conservationist who supports the plan. "We're getting 80,000 acres permanently protected. That will look in 500 years the way it looks now. Plus, we're getting 30 new beaches owned by the public."

Still, a number of people feel that the deal doesn't go far enough to protect the public interest or its pocketbook.

"The more I look, the more I sense a bait-and-switch scam," said Peter Douglas, executive director of the California Coastal Commission.

Douglas, interviewed by phone from San Francisco, had looked at the plan when details were first disclosed early this week on a California Resources Agency website.

He argued that in letting Hearst Corp. retain control of several of the most pristine coastal areas, such as San Simeon Point and Ragged Point, the public would be getting less access than it has now.

He pointed out that under the law, all beaches are public property.

Advocates of the plan, however, pointed out that to get to beaches now, visitors must cross over a fence and walk through Hearst property that could be closed any time if the deal doesn't go through.

"We may not get everything we want. But if you get enough, then you have to say, 'This is a big opportunity,' " said Sam Schuchat, executive director of the state Coastal Conservancy, who led the meeting.

At the meeting, critics of the plan insisted that they weren't trying to scuttle the deal but rather to strengthen it.

"Let's improve this. We don't have to go back and start over," said Carl Zichella, a regional staff director for the Sierra Club.

Longtime residents of the area could not recall a larger turnout for a meeting devoted to land use.

As people waited to speak, they stood against walls and waited outside on a pier.

The crowd cheered loudest when rancher Ralph Covell stood and said, "This is probably the biggest bargain ever put before the people of California. If they [activists] are too blind to see it, they're brain dead."

Several state agencies that will either help pay for the plan or be involved in the management of the ranch will be holding meetings to discuss the deal during the next two months. They include the Wildlife Conservation Board, which is scheduled to take up the plan Aug. 12 and could vote on whether to fund the deal.

The Coastal Conservancy will review the proposal in September, as will the state Public Works Board, which must decide whether to accept the more than 1,000 acres of beaches that would ultimately be managed by the state Parks Department.

The question of what to do with the Hearst family's 82,000-acre ranch that surrounds the monumental Hearst castle — which is managed by the state — and stretches 18 miles along the Central Coast to the southern end of Big Sur has been debated for close to 40 years. In 1965, plans were drawn up for a city of 65,000 that was to be called Piedras Blancas.

That plan was eventually discarded in favor of a downsized resort with a 650-room hotel, riding stables and an ocean-side golf course. That plan didn't go anywhere either after a contingent of local residents joined forces with environmental groups to mount effective opposition. Hearst lawyers protested what they considered interference from outsiders trying to tell them what they could do with their land.

Environmentalists and some Hearst family members took issue with Hearst Corp.'s pro-development stand.

"The San Simeon issue is a reflection of the fact that the corporation is essentially controlled by non-Hearst managers," said William Randolph Hearst II. He said the land

should remain in an unspoiled state.

Determined to prevent the Central Coast from falling victim to the development pressures that have transformed Southern California and the Silicon Valley, preservationists doggedly fought the Hearst development proposals. Their goal was to prevent development from spreading beyond the existing roadside strip of motels and restaurants in San Simeon.

A particular target of their ire was a proposed 27-acre golf course between Highway 1 and the Pacific. That proposal was eventually dropped.

Relations became so strained that when Stephen T. Hearst, the family member who has been spearheading negotiations over the ranch most recently, tried to restart talks four years ago, not a single environmentalist would meet with him. Shirley Bianchi, a San Luis Obispo County supervisor, said she was so suspicious of his motives that when Hearst invited her over she made her assistant go with her.

"I was not going to talk to a Hearst alone," she said recently.

Stephen Hearst, manager of the company's extensive real estate holdings, insisted he wasn't trying to ram a plan down the throats of local residents. He said he wanted a compromise everybody could be happy with. His charm offensive nearly backfired when it was revealed that while he was trying to ease tensions by hosting a series of breakfasts at the ranch, Hearst Corp. attorneys were filing paperwork asserting the right to build 400 homes on the ranch.

Amid the resulting howls of betrayal, Stephen Hearst said that while the family did have the right to build that many homes, he was only trying to authenticate historic real estate entitlements to help determine how much the land was worth.

Over time, Stephen Hearst's efforts began to win supporters, first among business and ranching interests and then among local government officials.

While Gov. Arnold Schwarzenegger has yet to bless the deal that would cost the state close to \$100 million, at least one of the governor's appointees has indicated strong support for the plan.

"Once [the accord is] consummated, I believe all Californians will be well-served by our efforts to present this spectacular working landscape as envisioned by William Randolph Hearst nearly a century ago," California Resources Secretary Mike Chrisman said in June. The ranch has been in the Hearst family since 1865.

Hearst Ranch Conservation NOW

**Hearst Ranch Conservation Project
Response to Draft of the
California Coastal Commission Staff Analysis**
Dated 8-5-2004

August 18, 2004



Hearst Ranch Conservation NOW is an independent group of individuals with varied and extensive land trust and environmental experience. We are not affiliated with the American Land Conservancy or the Hearst Corporation

Our website is
www.hearstranchconservation.org

Contact Information

Gary Felsman
gfelsman@thegrid.net
805-783-6068

Bruce Gibson
bgibson@thegrid.net
805-995-3059

Liz Scott-Graham
esgraham@slonet.org
805-785-0248

Hearst Ranch Conservation NOW

Response to Draft of the California Coastal Commission Staff Analysis

In a memo dated August 5, 2004, staff of the California Coastal Commission (CCC) summarize their analysis of the Hearst Ranch conservation project. This summary is critical of many aspects of the project and includes nine recommendations for improving the deal. Many of the criticisms and recommendations echo those of the strident opponents of the project.

Hearst Ranch Conservation NOW has reviewed this summary and the full 48-page analysis. We conclude that the main conclusions reached by CCC staff are based either on misleading interpretations of the publicly-available documents or a basic misunderstanding of the nature of this conservation transaction.

Below, we respond to the CCC staff analysis, including its rationale and recommendations. Following those comments, we include a copy of the CCC analysis summary, highlighted to note specific objections raised by staff. We find these objections can be addressed by reference to the available transaction documents, which we have done in other papers (“Viewpoint and Response to Comments”, and “Response to LAO Comments”) [maybe it’s easier to reference those than include a whole new table?]

General Comments

- First, we do not see any statutory basis for CCC staff to comment on this project. The CCC’s charge is to enforce provisions of the Coastal Act when development permit applications are brought forward. This transaction does not propose any development projects. Rather, it constrains the ability of the land owner to pursue development in the future.
- The CCC staff appears to misunderstand the nature of this transaction. The analysis refers to the project as the “Hearst Ranch Conservation Plan”, and staff approaches it as they would a Habitat Conservation Plan or a Specific Plan (i.e., part of the County’s Local Coastal Program). The Hearst project, in contrast, is a voluntary transfer of property rights to a qualified land trust. The transaction specifically acknowledges that any future development allowed under the retained property rights will be subject to all applicable regulation, including that of the CCC.
- The CCC staff analysis apparently has been conducted without any specific direction from the Coastal Commission. The summary text mirrors language used by the most strident opponents of the project, one of whom is a Coastal Commission staff member. The analysis appears to prejudice any future development applications that Hearst might submit.

Response to CCC Recommendations

In table form below, we respond to the recommendations offered by the CCC staff, with references to the transaction documents as necessary. The full text of the recommendations can be found in the copy of the CCC summary analysis following the table.

| Recommendation | Response | Reference(s) |
|--|---|--|
| <p><i>1. All lands west of Highway One, except for a limited commercial/visitor-serving node at Old San Simeon Village, should be conveyed into public ownership as should an identified public trail alignment connecting the Coastal Trail with public lands to the east of the Ranch.</i></p> | <ul style="list-style-type: none"> • This is a voluntary transaction, and the lands retained by Hearst were not for sale or offered as a donation. • Public access on the east side is not consistent with the operations of a working cattle ranch. • Trail access to public lands east of the Ranch is available immediately to the north of the property. | |
| <p><i>2. Subdivision of the Ranch for residential purposes should be prohibited..... Limited non-agricultural residential uses could possibly be considered in the context of a comprehensive lot retirement plan for the Ranch.</i></p> | <ul style="list-style-type: none"> • The Ranch already comprises 271 legal parcels, of which 123 are in the Coastal Zone. • The CCC can condition, but cannot prohibit, residential uses on those parcels within the Coastal Zone. | <p>East Side Conservation Easement (Tab 3C, Exhibit C)</p> |
| <p><i>3. All new non-agricultural development east of Highway One should be sited entirely out of major public viewsheds, including Highway One in its current and future configurations, the CCT, public beaches, the Hearst Castle, coastal waters, and other significant public vantage points. Except for visitor-serving development at OSSV and public access and recreation amenities, no development should be allowed in the public viewshed west of Highway One.</i></p> | <ul style="list-style-type: none"> • Homesite criteria require screening from the viewsheds of Highway 1 and the Castle. • Screening from the CCT and public beaches is likely accomplished, since they are west of Highway 1. • Screening from “other significant public vantage points” is unreasonably vague. • The Caltrans Scenic Conservation Easement protects the viewshed west of Highway 1. | <p>East Side Conservation Easement (Tab 3C, Exhibit H)</p> <p>Caltrans Scenic Conservation Easement (Tab 4B)</p> |

| Recommendation | Response | Reference(s) |
|--|---|---|
| <p><i>4. The HRCP should ... require that all new development, including agricultural intensification, avoid any ESHA and wetlands identified at the time of initial review of the proposed development, whether or not they are identified in the baseline study.</i></p> <p><i>The baseline study and an agricultural management plan should be made available to the public and the County for incorporation into the North Coast Area Plan LCP</i></p> <p><i>Cattle grazing and other agricultural land uses should be managed to provide maximum protection for ESHA, wetlands, and riparian resources while providing for a sustainable ranching operation</i></p> | <ul style="list-style-type: none"> • All such activities are subject to the requirement that conservation values not be impaired. • All development requiring permits will be subject to required environmental review. • In land trust transactions, these are not public documents, as they contain privileged information about private property. These documents are tool used by the easement holder to monitor easement compliance. They are subject to review and comment by WCB and DFG. • This is the purpose of the East Side easement. | <p>East Side Conservation Easement (Tab 3C, page 9)</p> <p>East Side Conservation Easement (Tab 3C, page 8)</p> |
| <p><i>5. The inland boundary of the proposed Highway One Realignment Area should be revised to provide for all reasonable alternative realignments of the highway...</i></p> | <ul style="list-style-type: none"> • This realignment area was determined by Caltrans. | |
| <p><i>6. Although an LCP amendment will be required to fully implement the HRCP, the plan should be submitted and evaluated as a comprehensive amendment to the North Coast Area Plan of the LCP.</i></p> | <ul style="list-style-type: none"> • Inappropriate, since this is a voluntary conservation transaction, not a development proposal. | |

| Recommendation | Response | Reference(s) |
|---|---|---|
| <i>7. The documents should be clear that the HRCP does not supersede regulatory requirements, does not alter regulatory standards, and does not create any entitlements to regulatory approval of the development and uses anticipated in the HRCP.</i> | <ul style="list-style-type: none"> • From a legal perspective, a contract between an easement holder and property owner can't supersede regulatory requirements. The easement document recognizes this. | East Side Conservation Easement (Tab 3C, Section 2, page 9) |
| <i>8. The HRCP should be revised to ensure effective public agency oversight and enforcement of the conservation values and interests being purchased in a manner consistent with natural resource protection policies of the Coastal Act. Maximum public participation in the monitoring and enforcement process should be provided.</i> | <ul style="list-style-type: none"> • WCB will approve the baseline report and monitoring protocols. • WCB will review the management plan and monitoring reports, and release a summary of monitoring reports. • WCB will require monitoring audits and will force reassignment of the easement if the easement holder fails to perform. | WCB Grant Agreement (Tab 3B) |
| <i>9. The public review process for the HRCP should be extended, to provide for adequate evaluation of the proposed land transfer, conservation standards and implementation mechanisms, and other information that is yet to be provided</i> | <ul style="list-style-type: none"> • Not necessary. This project has received unprecedented public disclosure and examination. • Delay could jeopardize the already-extended option between Hearst and the American Land Conservancy. | |

Text of CCC Draft Staff Analysis

We include below the text of the CCC staff analysis. We have highlighted the text to identify various objections and assertions made by CCC staff. These issues have been addressed in two previous Hearst Ranch Conservation NOW papers:

- Viewpoint and Response to Comments
- Legislative Analyst's Office, Letter and Response

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



August 5, 2004

To: Peter Douglas, Executive Director

From: Charles Lester, Deputy Director
Diane Landry, District Manager

RE: Synopsis of the Draft Staff Analysis of the Hearst Ranch Conservation Plan

This synopsis summarizes major concerns raised by the Hearst Ranch Conservation Plan (HRCP) with respect to conformity with the goals and policies of California's coastal protection program, and includes recommendations to improve the terms of this public conservation agreement to maximize protection of coastal resources on the Hearst Ranch. The Coastal Act requires that types, location, intensities, and design of new development in the coastal zone be consistent with the Chapter Three policies of the Coastal Act. This includes requirements to maximize public access and recreation, protect marine and coastal water resources such as wetlands and streams, avoid coastal hazards, avoid and otherwise protect sensitive habitat areas, concentrate urban development and assure adequate services for new development, maintain agricultural lands, and protect scenic resources. The primary mechanism for implementing these policies is through the regulation of development pursuant to certified Local Coastal Programs (LCPs).

The HRCP would establish, *in perpetuity*, significant land use expectations and restrictions for future development on the approximate 49,000 acres of the Ranch in the coastal zone. These lands contain some of California's most significant coastal resources, including 18 miles of shoreline with more than a dozen significant sandy beaches, scenic agricultural landscapes, and a multitude of diverse sensitive species and habitats. It is important, therefore, that the concerned public, decision-makers, and the landowner(s) understand the extent to which the proposed HRCP may or may not be consistent with the Coastal Act and the SLO County LCP. It is also important for all parties involved to understand that the HRCP in no way alters existing regulatory requirements or relieves the landowner(s) of requirements to obtain regulatory approvals prior to commencing development anticipated by the HRCP.

Public Access and Recreation. The HRCP is inconsistent with the Coastal Act requirement to maximize public coastal access and recreational opportunities. Major deficiencies include:

- Over 600 acres of the coast west of Highway One will remain in private ownership at Ragged Point, San Simeon Point, and Pico Cove. Public access will be significantly restricted in these areas and likely result in the actual loss of existing public access that has been available through historic permissive use policies on the Ranch, or that may exist as prescriptive public rights pre-dating these policies.
- Public access and use of westside lands granted to the State will be limited by legal restrictions that will take effect at the time of the land transfer. Basic public access and

recreation amenities, such as restrooms and parking lots are, as a practical matter, prohibited. Viewing the sunrise or sunset from these lands is prohibited under the HRCPP by restrictions on the hours of public availability.

- The California Coastal Trail alignment will be wedged alongside Highway One on the private retained lands west of the highway, rather than meandering along the shoreline. Hiking along the 18 miles of Hearst Ranch coastline on a continuous “Coastwalk” may not be possible due to restrictions on low-cost overnight facilities along the coast, such as a sensitively designed campground or hostel.
- No public trail link is provided between the coast and public lands of Fort Hunter Liggett or Los Padres National Forest.

New Development and Agriculture. The HRCPP fails to ensure maximum protection of agricultural lands of the Hearst Ranch, inconsistent with the Coastal Act and the SLO County LCP. Major issues include:

- The Eastside Conservation Easement provides very little protection of agricultural lands beyond existing agricultural zoning and related LCP requirements.
- The Eastside Conservation Easement actually allows for over 675 acres of non-agricultural residential estate development (25 Residential Parcels) in five “clusters” potentially encompassing approximately 3400 acres of ranchland. A conversion of agricultural land of this magnitude, let alone this configuration, could not be approved through the regulatory process absent an agricultural easement over the remaining agricultural lands that precluded future non-agricultural development in perpetuity.
- Visitor-serving and non-agricultural residential development potential on the Ranch in the coastal zone under existing conditions and regulations is limited, bringing into question the value of the agricultural conservation easement to the public.

Scenic Resources. The HRCPP fails to provide adequate protection of scenic resources as required by the Coastal Act and the LCP. Major issues include:

- The scenic resource protection standards for the proposed residential development sites are significantly weaker than the LCP, which requires locating development outside the public viewshed where feasible.
- Views from the realigned Highway One, California Coastal Trail, and public beaches and coastal waters are not protected by the agreement.
- Road development to serve new residential development clusters, and intensified agriculture would entail significant adverse impacts to rural grazing landscapes of the Ranch.
- The Caltrans scenic easement acquired as part of the HRCPP provides no meaningful protection beyond existing LCP and Coastal Act requirements. Further, the easement actually limits the potential for future beneficial public access and recreation

improvements on public lands. There is little development potential west of Highway One other than at Old San Simeon Village that would justify the scenic easement.

- Existing viewshed impairments such as the developed and potentially developed in-holdings north of Piedras Blancas are not addressed by the HRCP.

Environmentally Sensitive Habitat, Wetlands, and Riparian Resources. The current plan does not guarantee protection of highly significant rare and sensitive habitats, wetlands, and riparian resources on the Ranch. Potential inconsistencies with the Coastal Act and LCP include:

- The agreement contemplates over 675 acres of residential development and 3000 acres of intensified agricultural development in and around extremely significant rare and sensitive habitat areas. The size, location, and configuration of the clusters and agricultural intensification may cause significant direct adverse impacts and fragmentation of ESHA, including sensitive habitats currently identified as ESHA in the LCP.
- The ecological conservation values of the Ranch, protection of which is the primary purpose of public expenditures for the conservation easement, are only generally defined, and the baseline study of existing sensitive habitat resources is not complete and will be kept secret when it is finished and thus will not be available for public review. Without this information, determining whether environmentally sensitive habitat is actually going to be protected will not be possible.
- The standards for protection of sensitive habitats, wetlands, and riparian areas are considerably weaker than policies contained in the Coastal Act and LCP. The HRCP only requires a “balance” between agricultural uses and protection of water quality and riparian habitats. The Eastside Conservation Easement only requires prevention of “substantial impairment” of sensitive habitats, rather than the avoidance and prevention of new development within such habitat, as required by the Coastal Act and LCP. The HRCP definition of wetlands is less protective than that in the Coastal Act and LCP. Destruction of forested areas that may constitute ESHA is allowed by the HRCP to facilitate development.
- There are no provisions for periodically updating the Baseline Study to reflect changing conditions on the site, such as expansion of habitat areas over time, identification of sensitive habitats missed in the initial study, or newly identified sensitive species based on new information.
- The conservation management plan that is to be prepared by Hearst after the State finances the HRCP and that is the primary mechanism for resource conservation protection under the HRCP will be secret and not subject to public review. There is no effective public monitoring and enforcement mechanism to ensure that the public’s assets will be protected over time.

Coastal Hazards. The HRCP fails to respond adequately to identified coastal erosion hazards, inconsistent with the Coastal Act and LCP. Major problems include:

- North of Piedras Blancas, where shoreline retreat is most severe, the proposed Highway One Realignment Area does not appear wide enough to encompass all reasonable alternative locations for the highway, thereby prejudicing the alternative alignment review process and opportunities to avoid future shoreline armoring and maintenance of Highway One as a scenic rural Highway.
- Although the public will receive title to the existing segments of Highway 1 that are expected to be abandoned to shoreline erosion in the future—together with intervening portions of the Realignment Area, this public benefit is of limited value since these lands will be severely restricted with respect to allowable public uses and related improvements and, in the not-too-distant future, they are in fact expected to erode into the sea.

Public Process and Enforcement. The HRCPP fails to acknowledge or provide adequate state agency and public review and enforcement mechanisms for the proposed coastal resource conservation easement. Issues include:

- The HRCPP conveys certain property interests, creates expectations for certain intensities and locations of development, and imposes some restrictions on the use of Hearst Ranch properties. Although the HRCPP recognizes that LCP amendments and coastal development permits may be necessary to implement the HRCPP, it also allows the grantor to seek exceptions to the application of coastal regulations if they are made more restrictive in the future; and creates fallback development rights on existing parcels that are triggered by more than minor deviation from the development plan contemplated by the HRCPP.
- To the extent that the HRCPP provides coastal resource protection, it does not provide any meaningful ability for the State, which is expending public funds to acquire the conservation easement, to monitor and enforce these protections beyond the existing land use authority of the County and the Commission with respect to new development on the Ranch. Enforcement is limited to a complex and secret audit process to be conducted at long intervals under the auspices of the California Rangeland Trust. The audit results under the proposed HRCPP will not be subject to public review nor is there any effective mechanism for the State to ensure that publicly acquired conservation values and interests will be preserved.

Recommendations for an Improved Hearst Ranch Conservation Plan:

1. *All lands west of Highway One, except for a limited commercial/visitor-serving node at Old San Simeon Village, should be conveyed into public ownership as should an identified public trail alignment connecting the Coastal Trail with public lands to the east of the Ranch. An access and recreation management plan for all lands west of Highway One that provides for optimum alignment of the Coastal Trail and appropriate low-cost visitor amenities should be developed in consultation with State Parks, the State Coastal Conservancy, the Coastal Commission, SLO County, and other interested agencies.*

2. *Subdivision of the Ranch for residential purposes should be prohibited, and all areas of the Ranch not currently zoned for Agriculture, except for a limited commercial/visitor-serving node at Old San Simeon Village, should be rezoned to Agriculture. Further restrictions on supplemental non-agricultural uses beyond those of the LCP, such as prohibitions of dude ranches and health resorts, should be put in place. Limited non-agricultural residential uses could possibly be considered in the context of a comprehensive lot retirement plan for the Ranch.*
3. *All new non-agricultural development east of Highway One should be sited entirely out of major public viewsheds, including Highway One in its current and future configurations, the CCT, public beaches the Hearst Castle, coastal waters, and other significant public vantage points. Except for visitor-serving development at OSSV and public access and recreation amenities, no development should be allowed in the public viewshed west of Highway One. The State should evaluate viewshed restoration opportunities on private in-holdings and existing developments on the Ranch.*
4. *The HRCPP should incorporate the Coastal Act definitions of environmentally sensitive habitat and wetlands, and require that all new development, including agricultural intensification, avoid any ESHA and wetlands identified at the time of initial review of the proposed development, whether or not they are identified in the baseline study. The baseline study and an agricultural management plan should be made available to the public and the County for incorporation into the North Coast Area Plan LCP, and periodically updated to reflect changed environmental and legal circumstances. Cattle grazing and other agricultural land uses should be managed to provide maximum protection for ESHA, wetlands, and riparian resources while providing for a sustainable ranching operation.*
5. *The inland boundary of the proposed Highway One Realignment Area should be revised to provide for all reasonable alternative realignments of the highway, including the east-of- the Todd in-holding alternative. The HRCPP should also clarify that the State's participation in the agreement in no way whatsoever waives its authority to exercise eminent domain, in event it becomes necessary, to protect the public interest. As a fallback measure, the 1938 highway right of way easement should be left intact, to run concurrently on all applicable Hearst Ranch lands, including the lands of any successors in interest, without regard to the proposed Realignment Area.*
6. *Although an LCP amendment will be required to fully implement the HRCPP, the plan should be submitted and evaluated as a comprehensive amendment to the North Coast Area Plan of the LCP. This would allow for complete consideration of the plan with respect to the California Coastal Act. In particular, the location, intensity, and design standards for non-agricultural development contemplated by the HRCPP could be evaluated for consistency with state law, including Coastal Act sections 30241, 30241.5, 30242, and 30250 (Agricultural land protection and concentration of development); section 30251 (scenic resources); 30240 (environmentally sensitive habitat); 30230, 30231, and 30233 (water quality, riparian, wetland protection); and 30210-14 and 30220-24 (public access and recreation). Land use designations and policy requirements for visitor-serving development west of Highway One, and other relevant policies for the Ranch, should be updated in the LCP amendment,*

consistent with the Coastal Commission's 1998 NCAP Update and 2001 Periodic Review recommendations for San Luis Obispo County.

- 7. The various documents associated with the HRCP should be revised to make explicit that the HRCP is not an alternative to normal regulatory review of the development and uses set forth in the HRCP. The documents should be clear that the HRCP does not supercede regulatory requirements, does not alter regulatory standards, and does not create any entitlements to regulatory approval of the development and uses anticipated in the HRCP.*
- 8. The HRCP should be revised to ensure effective public agency oversight and enforcement of the conservation values and interests being purchased in a manner consistent with natural resource protection policies of the Coastal Act. Maximum public participation in the monitoring and enforcement process should be provided.*
- 9. The public review process for the HRCP should be extended, to provide for adequate evaluation of the proposed land transfer, conservation standards and implementation mechanisms, and other information that is yet to be provided.*

Exhibit 9.1: Public Comment—Letters

NORTH COAST ALLIANCE
P.O. Box 762
Cambria, CA 93428

July 20, 2004

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger:

The North Coast Alliance enthusiastically reaffirms our endorsement of the Hearst Ranch Conservation Project. We have reviewed the terms of the agreement presented last week by the state Resources Agency and find them to be outstanding in regards to permanent protection of the many, many valuable resources found on the Hearst Ranch.

Our organization was established in 1997 to oppose Hearst's plans for a golf course and mega-resort on San Simeon Point. We are pleased that our concerns have been heard and that the vast bulk of this beautiful ranch – especially San Simeon Point – will forever be spared from development.

We are part of the significant majority of San Luis Obispo County residents who approve of this conservation agreement, as evidenced by the nearly 400 supporters who attended the public meeting sponsored by the Resources Agency on July 15 in Cayucos. While the Sierra Club had mounted a negative press campaign and expensive postcard drive, their turnout was less than a quarter of the number of supporters who showed up to endorse the Hearst plan.


The North Coast Alliance is grateful to the Hearst family for this generous gift of permanent, legal access to 18 miles of coastline. And we concur with local ranchers that public access on the east side of the ranch must be denied because of the negative impacts on agriculture.

This conservation agreement is a bargain for the people of California. The state's independent appraisal placed the value of the conservation package at \$230 million, yet the agreement would pay Hearst \$95 million, with \$23 million of that amount to be paid in federal dollars. Hearst's contribution amounts to the largest single private donation to the state in history.

Exhibit 9.1: Public Comment—Letters

We ask you to please do everything in your power now to ensure that the state provides the necessary funding to make this conservation project a reality. Please don't let this once-in-a-lifetime opportunity slip away.

Sincerely,


Bill Allen, President
North Coast Alliance

Cc; Sam Schuchat, California Coastal Conservancy ✓
Al Wright, Wildlife Conservation Board
Mike Chrisman, California Resources Agency
Assemblyman Abel Maldonado
Senator Bruce McPherson
Senator Byron Sher
Senator John Burton

RECEIVED

JUL 26 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.



Mr. Sam Schucat
California Coastal Conservancy
11th Floor
1330 Broadway
Oakland, Ca 94612

September 7, 2004

Dear Mr. Schucat,

PasoWatch is a 501c3 organization focusing on the environment and land use and planning issues in north San Luis Obispo County.

PasoWatch has significant questions about the Hearst Ranch Conservation Plan.

The absence of public oversight in administering this easement is of particular concern to PasoWatch. As with all contracts, it is the responsibility of each party to the contract to insist on its own protections. This easement contract protects the Hearst Corporation and its assets but insufficiently protects the investment of the State of California. Further, no matter what legal protections are written into this contract on behalf of the sole easement holder (CRT), CRT does not and will not have the kind of resources necessary to challenge the legal resources of the Hearst Corporation. The power differential that exists between the Hearst Corporation and the CRT is in reality insurmountable. This is a one sided contract with little that the CRT can effectively do to protect the investment of the people of California. **There is no protection here for the public assets of the State of California.** If we, the State of California, are not an equal partner in this contract, with public oversight and equal veto power, there is no protection for our investment or for the biological resources.

At the WCB meeting on August 12, Senator Byron Sher referred to a letter he had received from Al Wright saying that the Hearst Corporation would not enter into an agreement directly with the state. The Hearst Corporation position here speaks right to the heart of the matter. They will not enter into a contract as an equal partner with the State of California and yet they are quite willing to take our \$95 million.

We, the public, need you to look out and speak out for our interests. Otherwise there will be no one to do that for us – now or during the life of this easement. We consider monies designated for parklands and true conservation to be a precious commodity. Protections of the public's assets in this contract can only be accomplished by making the State an equal partner and easement holder.

Page 1 of 3

Exhibit 9.1: Public Comment—Letters



Representatives for the Hearst Corporation and supporters of this agreement go to great lengths to impress us with the past record of the Corporation in its stewardship of the land. That has no bearing on what the future will bring. There is no guarantee that the Hearst Corporation will continue to own this land or that they will perform extra-contractual conservation goals. Additionally, what the people of California will have for its \$95 million won't even amount to what is in this contract in black and white if this enormous power differential is allowed to stand.

The LAO report and the Coastal Commission report raise serious doubts about the appraised value, the true extent of natural resource protection, actual development potential under current law, and the public benefit of the Conservation easement. These questions can only be adequately answered by true public oversight of the easement in perpetuity and public scrutiny of the Appraisal.

Although PasoWatch had endorsed the Framework for the Hearst Ranch Conservation in early 2003, we rescinded our endorsement on August 6, 2004. Our concerns include but are not limited to:

1. Public Access on the Westside of Highway 1. The Hearst Corporation will retain significant areas of the Westside. The parameters of public access will be finalized by the Hearst Corporation after the completion of escrow. When PasoWatch endorsed the Framework, Hearst Attorney Roger Lyon said that the State would be getting 18 miles of California Coastal property. There were no reserves and no indications that 18 miles of coastline would in reality amount to 900+ acres in fee, actually only 13 miles of coastline, and significant restrictions on access.
2. Development rights for 271 potential parcels. Development rights (certificates of compliance) for the 271 potential parcels on the Ranch are not clearly, irrevocably forfeited at the close of escrow. The ability to develop all 271 parcels may be overstated.
3. Housing for Hearst Family Members and Employees. These home sites have insufficient limitations on their locations and will be legal separate parcels that can be sold off. Home site locations have insufficient protections for sensitive habitats including siting parameters.
4. Agricultural Intensification. 3000 acres of irrigated row crops are allowed. The effects of agricultural intensification to sensitive biological resources are not addressed.
5. Water Transfers. The effects of water transfers on sensitive biological resources are not addressed. No parameters are set up to protect the public asset.

Page 2 of 3

PasoWatch Inc. P.O. Box 3314 Paso Robles, CA 93447 805.237.4443 www.pasowatch.org

Exhibit 9.1: Public Comment—Letters



6. Insufficient third party oversight in almost all aspects of the easement. Almost all rights and privileges are retained by the Hearst Corporation in this document. There is a severe power differential between the oversight powers accorded to CRT and the rights retained by Hearst. Almost no language is included that definitively protects the public asset for the State of California.
7. The appraisal is not open for public review.
8. No comprehensive biological survey is available.
9. The Conservation Plan, as it stands, gives the Hearst Corporation and future owners of the property blanket and precedent-setting exemptions from current and future regulatory requirements for development and minimizes or excludes many standard environmental protections.

Conservation easements may be an excellent tool for environmental preservation but if the HRCF reflects current practices or stands as an example of conservation practice, then the conservation easement as a tool needs to be abandoned. The HRCF does not protect our investment.

Yours truly,



Susan A. Harvey
President

RECEIVED
SEP 09 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

Page 3 of 3

PasoWatch Inc. P.O. Box 3314 Paso Robles, CA 93443 805.237.4443 www.pasowatch.org

Exhibit 9.1: Public Comment—Letters

-----Forwarded Message-----

From: Allan Eberhart <vallialli@jps.net>

Sent: Mar 9, 2004 9:43 PM

To: CALIF-ACTIVISTS@LISTS.SIERRACLUB.ORG

Subject: Land Purchase Comp 1

More background on Hearst

Comparison of recent State of California fee-title purchases of conservation lands and the proposed Hearst conservation deal:

Ballona Wetlands - Marina Del Rey

483 acres, wetlands - surrounded by dense development \$140 million Cost per acre - \$290,000

Grizzly Creek - Humboldt County

691 acres, old-growth redwood forest

\$18.2 million

Cost per acre - \$26,000

Coast Dairy Ranch - Davenport

(north of Santa Cruz)

7,000 acres, 7 mi. of coastal property, including 125 COC's

\$42 million

Cost per acre - \$6,000

Ahmanson Ranch - Ventura County

2,900 acres, chaparral and oak savannah - adj. dense development \$150

million Cost per acre - \$51,700

Sea West Ranch - San Luis Obispo Co. (approx. 7 mi. south of Hearst Ranch)

746 acres, coastal terrace with 3 mi. of coast - adj. no significant development

\$14.5 million

Cost per acre - \$19,500

Cargill Salt Ponds - San Francisco Bay

16,500 acres, ponds + extraction rights

\$100 million

Cost per acre - \$6,000

As compared with the Hearst Ranch sale (which is fee-title only in part):

Hearst Ranch - San Luis Obispo County (approx. 3 mi. north of Cambria)

1,100 acres of coastal terrace (less than 2% of the total ranch), approx. 18 mi. of coastline in fee-title, plus an agricultural easement covering some additional 82,000 acres - not adjacent to significant

development \$95 million (\$80m cash and \$15m tax credits) Approximate cost per acre - \$86,300

Exhibit 9.1: Public Comment—Letters

Additional conditions of the Hearst Ranch sale:

1. The Hearst Corporation is offering to retire 241 COC (Certificate of Compliance) parcels as well as a number of existing lots.

This is land zoned for agriculture and, until recently, was comprised of several large parcels. By administrative action, the County (at Hearst's request) carved 271 new "paper" parcels out of the larger existing lots in order to inflate the land value. A significant number of these parcels are substandard (some dating back to the 19th Century) and no larger than well sites or mining claims. SB 497 prevents the Hearst Corporation from adjusting lot lines to reconfigure or re-size these parcels, rendering many not buildable due to terrain, size, accessibility, or resource constraints.

There are likely to be environmental constraints on many of these lots (sensitive resources, view sheds, steep slopes, etc). Additionally, SLO County has a growth-management ordinance and the Hearst Corporation would have to get in line for permits to develop these lots, resulting in any permits being released across a number of years, perhaps decades, thereby reducing the value and marketability of those lots.

Because the Hearst Corporation is constrained by law from a wholesale rearranging of lot lines in order to create more developable and desirable parcels, and in light of the limitations of SLO County's Growth Management Ordinance, the value of many of the newly-created parcels as trade-offs for development is questionable.

2. The Hearst Corporation wants pre-approval to build 27 homes of unrestricted size on 5-acre "envelopes," probably on discrete 25-acre lots, scattered around the interior of the ranch, but offers these will be "adjacent to existing roads and out of sensitive areas".

The Hearst Corporation has repeatedly portrayed these developments as homes for family members, but ownership of the parcels would be unrestricted and nothing prevents the sites from being developed as mansion estates and sold on the open market for millions of dollars. There have also been no specifics as to what qualifies as an "existing road" leaving the possibility that the many ranch roads and jeep tracks that crisscross the property could be so defined, defeating the planning goal of making development compact and cost-effective as to the extension of taxpayer-supported urban services (such as fire and police), and minimizing impacts to existing agriculture. Since the County has never adequately mapped sensitive resources in the area, it remains unknown whether this number of large estates can be responsibly developed without causing immitigable impacts to sensitive resources.

Under San Luis Obispo County's General Plan, restrictions on housing development in land zoned for agriculture require that such development be clustered to minimize its footprint and impact to agriculture, and the remaining acreage be protected from future development by an Ag easement. If the County approved the 27 unrestricted dwellings (essentially a new sub-division), it could easily require the retirement of all the remaining lots, including the 241 COC parcels, as a condition of development. This is common practice for development in Ag zoning.

Exhibit 9.1: Public Comment—Letters

Also, locating new Coastal Zone development out of the viewshed and adjacent to existing roads is a requirement of the Local Coastal Plan and the Hearst Corporation would be subject to these constraints, regardless.

3) The Hearst Corporation wants pre-approval to build a 100-room resort at the beach across Highway One from the Hearst Castle, which attracts a million visitors a year.

Water, traffic, setbacks, and height limitations are barriers to the resort under SLO County's current General Plan and the development, as proposed, does not conform to that plan. If the County were to approve the resort, it would have to first amend the General Plan to deal with the height and setback problems, at the very least. It may be that the proposed location for the resort would need to be altered in order to protect threatened steelhead habitat, raising the possibility of the hotel being moved back towards the Hearst Corporation's preferred location on San Simeon Point - a location that could severely limit public access to the Point and impact other sensitive resources.

It would be fair and reasonable for the County to require an Ag easement on the surrounding coastal property as a condition of the approval.

Indeed, the Coastal Commission once required an Ag easement over the Hearst Ranch as a condition of granting Hearst Corporation's request for re-zoning a portion of the property from "Agriculture" to "Recreation"

in order to build a resort. The Hearst Corporation and the County refused to enter into an easement agreement and the Coastal Commission, ignoring its own regulations, lifted this requirement after new commissioners were appointed following a change in administration.

4) The Hearst Corporation proposes to limit its activities east of the highway to "agriculture" through an agricultural easement.

This is except for the 27 unrestricted dwellings and any attendant uses - guesthouses, stables, pools, recreation facilities, and commercial uses allowed by County policy. Historically, the Hearst Ranch has been a cattle operation - a low-intensity use, but the Corporation wants an agricultural easement guaranteeing its right to future expansion to "active" agriculture like row crops, vineyards, and anything else that SLO County's liberal Ag policies currently allow, such as B&Bs, restaurants, wineries, wine tasting rooms, packing and processing plants, greenhouse complexes, ranch-support housing, dude ranches, etc. In addition, the Hearst Corporation has also rejected the idea of a third party beneficiary to the Ag easement contract that could provide protection against any future renegotiation of the easement to allow additional resort development.

5) The Hearst Corporation would retain ownership of three sandy beaches and surrounding land west of the highway for private use, strictly limiting any public access.

These areas are the only significant sandy beaches on the property and the Hearst Corporation has previously proposed resort developments for all three sites. Cutting these beaches out of the fee purchase would create private inholdings on public land, force the planned California

Exhibit 9.1: Public Comment—Letters

Coastal Trail onto the highway in those areas, and severely limit public access to some of the most desirable coastline. Additionally, it raises questions regarding the ability of the proposed easement agreement to prevent any future development on these sites if the easement agreement is renegotiated. All these beaches, as well as the entire Westside property, are currently open to reasonable public access, and have been for decades. The Corporation made a permissive use filing (PR Code 813) on this land in the 1970's as a way of extinguishing any historic right to public access; in return it must allow reasonable public use.

6) The Hearst Corporation claims its proposal will reduce to a fraction the amount of development possible under the current land use plan.

It seems apparent, given the Hearst Corporation's decades-long campaign to secure approval for developing multiple resorts, that if it could build now under the current plan, it would. If nothing else, traffic impacts and water supply constraints (both of which were underestimated when the Hearst plan was approved in concept over 20 years ago) would prevent the Hearst Corporation from developing to that extent. The current General Plan only allows the Hearst Corporation to begin the application process for development approval; it does not pre-approve any development or create development entitlements. State law is clear that these environmental impacts must be addressed before any development can be permitted and the Hearst Corporation has never convincingly shown how these barriers to development might be ameliorated.

Analysis:

A. The Ag easement being proposed on the east side of Highway One in exchange for retiring some development potential is a hollow offer. The 27 large, unrestricted development sites for luxury homes will be in land zoned for agriculture and under County ordinance this would trigger an Ag easement as a condition for creating a new sub-division. This required easement would likely be more durable than the one offered by the Corporation and, as time passes, put greater limits on non-agricultural uses than what the Corporation is attempting to lock-in with an easement of its own design.

The State should not be required to pay for an easement that is a customary requirement of subdivision development in agricultural zoning.

B. The development of a resort at Old San Simeon should trigger an agricultural easement over a significant part of the coastline, as was once required for the change in zoning from agricultural use by the Coastal Act. The Corporation is asking an inflated price per acre for the property west of Highway One since further development of the coast would be limited as mitigation for the new development at Old San Simeon.

If a 100-room hotel is part of the agreement, the remaining coastline should be appraised based on its agricultural value with virtually no development potential.

Exhibit 9.1: Public Comment—Letters

C. The value of the westside property is greatly reduced by the Corporation's intent to keep the only three sandy beaches as private land. This creates a series of shorter sections of accessible coastline along the narrow band between ocean and highway, rather than the uninterrupted 18-mile stretch that the Corporation advertises. Since the public currently has the right to access this land through the Corporation's permissive use filing, allowing the creation of private beaches is a large step backward.

No deal made with public money should result in significant loss of public access.

D. The Corporation's ability to develop the ranch today to the full extent considered in concept by the 20-year-old General Plan is extremely doubtful. Language in the plan, the Coastal Act, and state law makes it clear that resource concerns would severely limit what could reasonably be approved given changed circumstances regarding traffic, water, sensitive resource areas, and viewsheds.

The basis for valuation of the Hearst Corporation's proposal should not be drawn from an outdated and unsupportable estimation of development potential and compromised environmental documents.

In summary:

Beyond what would be the legal and customary mitigations for the significant impacts of its proposed developments, what the Hearst Corporation actually has to offer for sale is approximately 1,100 acres of fragmented coastline (partitioned by its private ownership of the only three sandy beaches), which would be largely limited to agricultural uses and retain only minimal development potential. The market value of this property would be far less than the Corporation's asking price of \$86,300 per acre - quadruple what the State paid for the Sea West Ranch just south of the Hearst Ranch and significantly more per acre than Ahmanson, Grizzly Creek, Coast Dairies or Cargill (but less than Ballona, - zoned for intensive commercial development and surrounded by the L.A. metropolis).

The proposal would also result in a significant loss of public access and grant the Corporation the ability to pursue residential and commercial developments easily worth hundreds of millions of dollars. The Hearst Corporation may have discovered an ingenious way to circumnavigate the resource constraints and public opposition that would normally limit the level of potential development, while charging the public for what would normally be required as impact mitigation.

Therefore, the State should not pay a phenomenally inflated price for property of limited development potential in a deal that would result in a net loss of public access, predetermine a certain level of development regardless of immitigable impacts, and compromise future public land acquisitions.

- - - - -
- To leave the CALIF-ACTIVISTS list, send e-mail to
LISTSERV@LISTS.SIERRACLUB.ORG and, in the text of your
message (not the subject line), write: SIGNOFF CALIF-
ACTIVISTS

Exhibit 9.1: Public Comment—Letters

Note: An additional 25⁺ similar cards were received by September 7, 2004.

Dear Chair Morabito and the California Coastal Conservancy,

I am concerned about the Hearst Ranch conservation deal. Please delay your decision.

As it is proposed today, the conservation deal for the Hearst ranch does not guarantee the public will provided with adequate access opportunities. In this current deal, the public will end up with less access than they have today. For \$95 million in public dollars the Hearst corporation should not retain development rights and large tracts of land for their private use. I am very concerned that the public will not be included in the development of the critical management plan, to protect sensitive resources on the property. Please, do not fund this deal, until it can be renegotiated to better benefit the public's interest.

Please, the public needs REAL access to S.S. Point Ragged Pt, and Pico Cove. The public/government needs REAL oversight/power to maintain the ranch.

NAME: Bob McDonnell
 Address: PO Box 1763
 City: Cambria State: CA Zip: 93428 *San Luis Obispo*

Bob McDonnell

Dear Chair Morabito and the California Coastal Conservancy,

I am concerned about the Hearst Ranch conservation deal. Please delay your decision.

As it is proposed today, the conservation deal for the Hearst ranch does not guarantee the public will provided with adequate access opportunities. In this current deal, the public will end up with less access than they have today. For \$95 million in public dollars the Hearst corporation should not retain development rights and large tracts of land for their private use. I am very concerned that the public will not be included in the development of the critical management plan, to protect sensitive resources on the property. Please, do not fund this deal, until it can be renegotiated to better benefit the public's interest.

NAME: FRED F. WADSWORTH
 Address: PO Box 6834
 City: Los Osos State: CA Zip: 93412

How can you give \$95m. of the taxpayers money away & the people get nothing in return?

Exhibit 9.1: Public Comment—Letters

CONSERVANCY STAFF NOTE: Approximately 45 additional e-mail messages with identical text have been received by staff.

text: -

Sam Schuchat, Executive Officer
State Coastal Conservancy
11th Floor, 1330 Broadway,
Oakland, CA 94612
Phone. (510) 286-1015

Subject: Support for State Coastal Conservancy Grant for Hearst Ranch

Dear Mr. Schuchat:

I want to express my support for the Coastal Conservancy's grant for the Hearst Ranch conservation project. With the unanimous vote by the Wildlife Conservancy Board (WCB) on August 12, 2004. The approval of this grant will complete the funding for this great project.

It has taken a lot of work to get this far, and, I want to commend you, your staff and all the agencies involved on the excellent work done to reach an agreement between the American Land Conservancy, California Rangeland Trust and the Hearst Corporation.

The preservation of 18 miles of coastline, San Simeon Point, the transfer of many beaches into public hands, and conserving the 82,000-acre working ranch, while at the same time protecting the wildlife and habitat on the Ranch itself, is a great achievement. The citizens of California and visitors to the area will be ever grateful for what you have accomplished here.

Please approve the grant for this project.


Sincerely,

Dominic B. Perello
1591 Slack Street
San Luis Obispo, CA 93405-1963

cc: Governor Arnold Schwarzenegger
Senator Bruce McPherson,
Assemblyman Abel Maldonado,
Senator Mike Machado
Senator Sheila Kuehl
Senator Byron Sher
Senator Betty Karnette
Senator Wesley Chesbro
Assembly Member Jenny Oropeza
Assembly Member Patty Berg,
Assembly Member Hanna-Beth Jackson
Assembly Member Fran Pavley
Assembly Member John Laird
Wildlife Conservation Board
California Resources Agency

Exhibit 9.1: Public Comment—Letters

David H. Anderson

LAND CONSERVATION  NON-PROFIT GOVERNANCE

September 3, 2004

Sam Schuchat
Executive Director
California State Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, California 94612

Subject: **Hearst Ranch Conservation Plan • San Luis Obispo County**

Dear Mr. Schuchat:

I am writing this letter in support of the Hearst Ranch Conservation Plan and the funding request which is on the agenda for the State Coastal Conservancy meeting on September 15, 2004, in Windsor, California.

I have spent the past 20 years of my legal practice specializing in land use law and land conservation issues. I served as the lead negotiator on three major land acquisitions in Santa Barbara County - Sedgwick Ranch, Carpinteria Bluffs and Rancho Arroyo Hondo on the Gaviota Coast. I serve as General Counsel for the Land Trust for Santa Barbara County and as a board member of the California Nature Conservancy and Land Trust Alliance. I am also a legal advisor to the California Rangeland Trust, working with them on a joint outreach project to agricultural landowners in Santa Barbara County, and I have served as an advisor to the Environmental Defense Center. While I am writing this letter as an individual, the issues involved in this project are issues I have dealt with for many years as a negotiator of land acquisitions and conservation easements.

I have toured the Hearst Ranch property on two occasions and met with representatives of the Hearst family to discuss the Conservation Plan. Over the past eight months, I have been working as a volunteer seeking to help resolve the conflicts between the Environmental Defense Center and the Hearst family over the terms of this Conservation Plan. I have been largely unsuccessful in that effort due to a fundamental distrust of conservation easements by the Sierra Club and EDC and their insistence on public land ownership and greater public access.

What should have been a great opportunity to celebrate an historic conservation success has turned into a bitter controversy fueled by misinformation and distrust. In the end, most of their objections to this Conservation Plan simply have no merit.

• **Appraisal Report.** The appraisal summary report provides ample justification for the investment of \$95 million by the State of California in this project.

TELEPHONE

(805) 963-6503

1114 State Street, Suite 200, Santa Barbara, California 93101

FACSIMILE

(805) 963-6988

ATTORNEY AT LAW

Admitted to Practice in State of California, State of Wyoming, Federal Courts

Exhibit 9.1: Public Comment—Letters

Sam Schuchat • September 3, 2004 • Page Two

- **Public Ownership.** Public ownership of all the land west of Highway 1 would *not* provide the best protection for the fragile coastal resources. Private ownership with limited public access and strong resource and viewshed protections will provide the best stewardship for these coastal lands - and cost the State much less now and in the future.

- **Siting of Future Housing.** After touring most of the areas proposed for future housing and talking with the environmental professionals who worked on the siting, I am convinced that the location of potential future homes has adequately addressed potential impacts to natural habitats and public viewsheds. Getting those home sites approved requires changes in current zoning and coastal policies, and that is why the Hearst family needs the flexibility to relocate building envelopes. With some minor clarification in easement language, the concerns from the conservation community regarding loss of habitat and resource fragmentation can be fully addressed.

- **Public Access.** I can understand the reluctance of the Hearst family to allow public access across the East Ranch, which is a working cattle ranch. I do not support any requirement for public access east of Highway 1.

The two proposed conservation easements for Hearst Ranch are not "perfect" documents. Each easement transaction is a negotiated agreement between a willing landowner and a land conservation organization or public agency which creates a partnership for the future protection of the natural resources and/or working landscape which exist on the property. Some conservation easements are stronger than others, and there is always a give-and-take in the negotiations that results in language that is ultimately acceptable to the parties involved in the transaction.

Concerns have been expressed by some leading land conservation professionals regarding specific terms in the two conservation easements. I have reviewed the two easements in detail and initially shared those concerns. However, after extensive discussions with Roger Lyon, attorney for the Hearst family, and Nita Vail, Executive Director of the California Rangeland Trust, and further analysis of the easement language and proposed monitoring protocol, I am satisfied that the significant issues have or will be addressed in the final easements and related documentation. I am also encouraged by the conditions imposed by the Wildlife Conservation Board in their approval of funding last month.

In many ways, the Hearst Ranch Conservation Plan sets a new and stronger standard for land conservation with a required management plan, monitoring protocol, extensive ecological research, and documentation of habitats and natural resources. In other ways, the two easements provide a unique approach to monitoring and

Exhibit 9.1: Public Comment—Letters

Sam Schuchat • September 3, 2004 • Page Three

enforcement which will need the test of time to validate and confirm. With the continued oversight and involvement of the California Rangeland Trust, Wildlife Conservation Board and other agencies, we have a very strong likelihood that the conservation values associated with this incredibly diverse ecological system will be fully protected and enhanced over time, while still allowing the economic sustainability of a working agricultural landscape. At the current time, there are no constraints on the landowner to continue the exemplary stewardship which, under the leadership of Steve Hearst, has been the standard set for this 82,000-acre coastal jewel.

I have examined this conservation proposal in detail, and I am convinced that my initial concerns and those of other land conservation professionals can and will be addressed in the final documentation for this project. **This is a once-in-a-lifetime opportunity for the people of California to invest in the permanent protection of a vast coastal ranch with incredible natural resources, unique natural habitats, fabulous viewsheds and exemplary range management.** I urge you and the board of the State Coastal Conservancy to support approval of funding for the Hearst Ranch Conservation Plan on September 15, 2004, so that this historic conservation opportunity will not be lost.

Sincerely,



David H. Anderson

cc: Roger Lyon/Hearst
Sage Associates
Nita Vail/CRT
Graham Chisholm/TNC
Linda Krop/EDC
Honorable Lois Capps
Honorable Hannah-Beth Jackson

RECEIVED

SEP 08 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.

Janet Diehl

From: Phil Ashley [pashley@calpoly.edu]
Sent: Wednesday, September 08, 2004 3:07 PM
To: jdiehl@scc.ca.gov
Cc: pashley@calpoly.edu
Subject: My Hearst Ranch DEAL comments

To: Chairman Paul Morabito
Attn. Janet Diehl (Hearst Project Manager)
Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, CA 94612

September 8, 2004

From: Phil Ashley
1586 La Cita Court
San Luis Obispo, CA 93401

Subject: My written comments for your September 15, 2004, hearing in Napa on the Coastal Conservancy's \$28 million funding proposal for the Hearst Ranch project in San Luis Obispo County.

Dear Coastal Conservancy Board members:

I will keep this cover letter to you short because I want you to read my attached longer letter, which I provided to the Wildlife Conservation Board (WCB) for their August 12, 2004, funding proposal hearing on the same Hearst Ranch project. I adequately explain in my attached letter to the WCB my professional career as a fish and wildlife biologist so I will not duplicate that information here. Also in the attached letter I explained that I would have preferred to have supplied my comments to the WCB on behalf of Canyons And Streams Alliance (CASA) which I co-founded, but I did not have time to coordinate my comments with others in CASA. I now have had that time, and the other co-founder of CASA, Eric Greening, and I have decided we can overall be more effective providing you with our separate written comment letters rather than providing you with one CASA letter.

As a career fish and wildlife biologist I am in a position to speak more uniquely for wildlife than most other environmentalists who are opposing the current Hearst Ranch DEAL. I too oppose this DEAL and I urge you to read my attached letter in its biological entirety so you fully understand why it is such a bad DEAL for wildlife despite the WCB's August 12 approval of a \$28.5 million funding package for it. I have heard through the network that I have cultivated over a professional lifetime of activism on behalf of wildlife, that many rank and file biologists in the California Department of Fish and Game (CDFG) are very upset with the actions of the WCB whose members for the most part are not biologists but instead are political appointees.

I have changed nothing in the attached letter that I urge you to read because between the time I wrote the letter to the WCB and now, nothing has changed in this DEAL that unfortunately has many things in it that will make it significantly harder for wildlife to survive than compared to their existing survival capabilities. And all these bad things for wildlife in the DEAL are clearly explained in the attached letter. The only thing that I ask of you when you read the attached letter, is each place that I referred to or addressed the WCB, please read it as if I was referring to or addressing you the Coastal Conservancy (CC), since I am asking of you exactly what I was asking of the WCB that subsequently proved derelict. Finally, each place in the attached letter that I wrote \$28.5 million, treat that as if I were now saying \$28 million, as the former was the WCB's proposed Hearst funding package and I understand that the latter is your proposed Hearst funding package.

In summary, to appropriately exercise your public trust on behalf of citizens and wildlife, please do not approve the \$28 million for funding the current very bad DEAL for wildlife and instead read my attached letter and do what I have recommended in it that you do with the \$28 million for a far better Hearst Ranch deal for wildlife!

Sincerely, Phil Ashley (career fish and wildlife biologist)

9/8/2004

Exhibit 9.1: Public Comment—Letters

Page 2 of 12

To: Wildlife Conservation Board
1807 13th Street
Suite 103
Sacramento, CA 95814

August 9, 2004

From: Phil Ashley
1586 La Cita Court
San Luis Obispo, CA 93401

Subject: My written comments for your August 12, 2004, meeting in Sacramento on the Hearst Ranch Conservation Area, Item 35, funding proposal, mostly referred to in my comments as the "DEAL", as that is how the media, Legislative Analyst's Office, etc., have periodically referred to it.

Dear Wildlife Conservation Board:

I am a career fish and wildlife biologist with an MS in fisheries from Humboldt State in 1973 and a BS from Cal Poly San Luis Obispo in 1968. Though I worked as a seasonal aid for the CDFG in 1971 and as a career fisheries biologist for the USFWS from 1973-75, since that time I have been a biologist (staff, not faculty) in the Cal Poly Biology Department. On behalf of flora and fauna I have presented written and oral testimony on numerous development projects, as the proposed Hearst DEAL.

I would have preferred providing this letter as a founding member (10 years ago) and representative of Canyons And Streams Alliance (CASA). But there has not been time to coordinate my comments with other CASA members before your August 12 Wildlife Conservation Board (WCB) meeting on potentially funding the proposed Hearst DEAL, so I am independently providing you with these important comments.

I have one main definition for these comments: "Eastside" refers to all Hearst Ranch land east of Highway 1 and "Westside" refers to all Hearst Ranch land west of Highway 1 to the Pacific Ocean. My subsequent comments on the DEAL will cover 6 sequentially numbered major issues: three major issues for the Westside, numbered 1 to 3, and three major issues for the Eastside, numbered 4 to 6.

I will start my comments with the Westside issues because other than Westside scenic and access issues, most of the environmental focus has unjustifiably been on the Eastside issues. This is a serious ECOLOGICAL oversight that immediately must start being addressed by the WCB, other decision makers, and the public.

My Westside comments on the DEAL are concerned with 3 major issues that will significantly impact wildlife and their habitat. These are the harmful to wildlife issues of Westside viewscape protection, the Coastal Trail, and proposed new massive passive public access along 13 miles of coastline where pristine wildlife habitat now mostly exists.

1. The first of my 3 major Westside issues with the DEAL is ecologically harmful viewscape protection. A main reason for lack of focus on Westside ecological issues to date has been the lack of public funding for Westside environmental easements except for Cal Trans supplying funding for the Westside "viewscape easement". But thoughtless viewscape protection can and often does have terrible consequences for wildlife and their habitat.

Before I provide a critically needed solution to the harmful viewscape problem for the WCB to act on at your upcoming meetings on the DEAL, I need to provide a discussion explaining how viewscape protection has frequently acted at the expense of wildlife protection.

The crafters of CEQA may have believed that if public views from highways or other areas of human development and concentration were protected, then the habitat

9/8/2004

therein would be protected. But on project after project the opposite has occurred. To protect public views along highways, etc., repeatedly development projects have been placed in the hill and dale, swale, and woodland habitats of valleys because these natural features hide developments from valley highway views, etc. Or the other trick viewscape planners use is to place developments far back from highways, rather than right next to them, as the former minimizes the apparent size of the structures to speeders along public highways.

And since views are an easy concept to understand compared to the complexities of wildlife habitat protection, too often planners everywhere take the path of least resistance and protect views first in their planning by hiding developments, then they worry about the difficult task of trying to protect wildlife and their habitat.

Some San Luis Obispo County examples of successful highway viewscape protection at the expense of rural wildlife protection have been the CBS (Edna) Ranch housing development, the Barrons Ranch housing development, the Varion Ranch housing development, Hunter Golf Course, Dairy Creek Golf Course, Sycamore Hot Springs Motel development, San Luis Obispo City General Plan and derived projects, San Luis Obispo County General Plan and derived projects, and Cal Poly University Master Plan and derived projects.

But planners misleadingly argue that they are not giving viewscape priority over habitat protection because CEQA requires adequate mitigation for all environmental impacts. True, but often that is not what happens. Instead what often happens early in the planning process is the popularist public views are protected by hiding proposed development behind natural landscape features, and then over time, due to things like costs, politics, weak will, etc., the planning process for wildlife protection tends to break down-- except usually for rare, threatened and endangered species.

But CEQA was not meant to mostly just protect species well on their way to extinction-- the Endangered species act is primarily for that. CEQA was primarily intended to keep species from becoming threatened by extinction! So with this kind of weak willed planning we get especially more and more threatened and endangered valley oriented wildlife species. State and federal threatened and endangered species lists are a who's who roll call of valley wildlife species.

The ecological problem with placing developments behind natural features or set back long distances from roads to protect views is these distant or out-of-site (out-of-mind) areas that are typically buffered for wildlife from existing developed areas, as highways, are often the last remaining wildlife sanctuaries/havens remaining in our rapidly developing valleys. So how can planners and EIR preparers argue that impacts to wildlife are adequately mitigated when proposed developments are repeatedly placed in the ever dwindling valley wildlife habitat havens? The answer is these valley wildlife sanctuaries can never be adequately "mitigated" once proposed developments have been dumped in them to save a public views along roads, etc.

Nearly worthless "wildlife" mitigations that typically are done to "compensate" for building in naturally buffered valley habitats, are native plant landscaping in and around the developments and requiring mitigation money from developers to buy "compensating" valley wildlife land.

But native plants stuck around developments can never replace the land wildlife have lost due to the developments. And, because rich, deep-soiled valley lands, that are so valuable for people and wildlife, are very expensive and thus hard to acquire, almost always the wildlife "mitigation" land that gets acquired to replace critical valley habitat is relatively cheap, plentiful steep lands that are typically not slated for future development anyway. So why waste mitigation money

9/8/2004

on what wildlife already have and are not going to lose!

Even worse, the steep "compensation" lands that get thusly acquired for valley wildlife can never adequately replace the rich, deep-soiled, wildlife diggable/burrowable valley lands, as the steep hillside and mountainside lands are typically thin-soiled, bedrock underlain and thus difficult or impossible for wildlife to burrow into for survival. Unless all we plan to do is maintain at-risk residual wildlife populations in the steep lands, as we take nearly all the good valley lands for ourselves.

The overall solution to this problem is simple. Build new developments next to and in plain sight of the already disturbed or ruined habitat along highways and other developed areas.

But specifically what the WCB must do to counter the Cal Trans viewscape easement money that will likely again work to wildlife's detriment when Westside public access developments as campgrounds, associated structures, etc., are ultimately planned in a manner to be hidden to save the Highway 1 viewscape, is the following. When you eventually act to fund the Hearst DEAL (but not the ecologically riddled current DEAL) make sure a significant specific portion of the \$28.5 million of public wildlife protection bond money is for securing wildlife habitat easements on the Westside too, since Hearst Corporation likely doesn't care how the money is targeted by the WCB to be split between the Eastside and Westside, just so they get your (our) \$28.5 million.

If you fail to do this it will mean that the only publicly funded interest on the Westside will be viewscape easement protection. Therefore, the already Cal Trans vested viewscape protectors will have the strong upper hand over wildlife advocates concerning what is and isn't adequately protected on the Westside. Because the latter scenario is unacceptable, and because wildlife on both sides of Highway 1 are equally in critical need of wildlife habitat easements for their survival, please also fund wildlife easements on the Westside!

2. The second of my three major Westside issues concerning the DEAL is the proposed Coastal Trail (CT).

One of the few good environmental aspects of the DEAL is that it ecologically correctly puts the proposed CT close to Highway 1 to protect wildlife and their habitat. This has been done in recognition of the fact that peopled trails, especially ones in open terrain, as the proposed one through mostly open Coastal Terrace prairie, have significant impacts on wildlife.

Most wildlife rightfully fear the sight of us for what we have done and continue to do to them as their predator and as a destroyer of their habitat. Think of the fear we would have of a superior species that could show up anytime with bulldozers to knock down our homes, neighborhoods, and towns. Most wildlife, and especially larger birds (hawks, falcons, eagles, kites, vultures, egrets, herons, curlews, willets, etc.) and free roaming mammals (bears, mountain lions, bobcats, coyotes, foxes, badgers, weasels, etc.), can be scared away from either side of trails in open country from about 100 yards to 1/2 mile or more depending on the species and situation. And it is the site of us and not our inventions and developments that wildlife fear most.

To test this fear, try this easy experiment. When from afar you spot a raptor sitting atop a telephone pole along a country road, carefully drive up to it along the edge of the road. You will often find that you can drive to less than 50 yards of the hawk without it flying away. You can even park and it will usually stay put as long as you quietly remain in your vehicle. But when you start to get out of your vehicle and the raptor sees you, it flies away! That is the enormous fear many

9/8/2004

wildlife species have of our mere presence. They aren't afraid of our telephone poles, roads, vehicles, trails, etc., but they are afraid of the sight of us often fleeing us from great distance, as they have learned that we can harm or kill them from great distances (guns, bows, etc.).

Thus, man does not have to destroy habitat with hardscape or monoculture to partially or completely destroy its value to wildlife. The proposed narrow Coastal Trail itself will destroy little wildlife habitat, but the fear that wildlife will have of seeing us on it in their habitat, will cause significant adverse impacts to many wildlife species for hundreds of yards to either side of it, unless it is placed as close as possible to Highway 1, for example within 25-100'.

But instead of being pleased that they are getting a trail easement in the DEAL, the CT promoters are already complaining about its good placement near Highway 1 to protect wildlife. They are more concerned about maximizing their recreational pleasure than valley wildlife's survival struggles. They are demanding that the CT be placed along the Ocean blufftop. They say a trail in such a sensitive wildlife area can be "mitigated".

But how can it be adequately mitigated unless its sides and top are completely enclosed in a vegetated arbor so wildlife cannot see humans therein and therefore will not be frightened off. However, such a totally enclosed trail would be less desirable to hikers than a fairly open one close to Highway 1 where Ocean, coastal prairie, riparian, hill and mountain views are likewise prevalent!

The paramount question I need to answer here is what is so ecologically bad about a blufftop CT, considering that, similarly to it being aligned close to Highway 1, it would be at the edge of the sensitive narrow coastal terrace prairie habitat, therefore not significantly fragmenting it?

The answer is that if the CT is placed along the Ocean blufftop, it will have significant adverse impacts on seabirds, raptors, songbirds, etc., that now use the cliff for rest and forage staging stations.

Most wildlife bird species cannot tolerate people roaming above them or periodically looking down on them, as in this way one of their greatest securities from humans is lost. This is the security that flight allows birds to attain a verticle buffer between them far up on trees, bluffs, and cliffs and us below on the ground. But this naturally evolved vertical security buffer for birds is lost when we turn the tables on them showing up above them as on ocean blufftop trails. This kind of thoughtless human "planning" leads to cliff utilizing birds being too frequently or permanently driven from their critically needed bluff resting and forage staging habitat!

Think of travels you have made to or wildlife documentaries you have seen of wild and rural areas where little or no human disturbance occurred and where resting, feeding, or nesting birds were plentiful on ocean bluffs. Then think of many ocean bluffs you have seen in California where blufftop trails abound but the bluffs are nearly or completely deplete of birds. We must avoid the loss of this naturally evolved Ocean bluff habitat for birds by preserving this important vertical security buffer for them by not placing the Coastal Trail along the bluff top.

If the CT promoters are trying to argue things like placing it near Highway 1 is not as scenic for them as placing it on the Ocean blufftop, or that Highway 1 will create a noise to CT users, then native shrubs can be planted on the Highway side of the CT to buffer its users from Highway noise and appearance. We must decide what is more important in this issue-- wildlife survival or maximizing trail recreation? Hopefully it will ultimately be determined to be the former by decision makers and an informed public.

9/8/2004

But unfortunately it will probably not soon be the former by some influential Coastal Trail promoters. Therefore, as with the previously discussed Highway 1 viewscape issue, for wildlife advocates to have a vested and viable hand in ensuring that the habitat of the Westside gets adequately protected by placement of the proposed CT as near to Highway 1 as possible, it is critical that the WCB act to use a significant specific amount of the \$28.5 million public wildlife conservation bond money to fund Westside habitat easements too!

This will assure that on the Westside CDFG and other wildlife advocates will continue to be in as strong a bargaining position as the already vested viewscapers funded by Cal Trans and already vested CT promoters granted a CT easement by the DEAL.

3. My third and final major Westside issue with the DEAL is the new official massive passive public access to 13 miles of Hearst Ranch coastline, which will have significant adverse impacts on wildlife and their habitat.

These 13 miles represent almost 75% of the 18 miles of Hearst Ranch coastline that is now private property and nearly all officially off limits to the public masses. Therefore, most of the Hearst Ranch coastline is fairly undisturbed, pristine, wildlife habitat. So I strongly disagree with the public access advocates who are arguing to decision makers and in the media that there needs to be even more public coastal access than the 13 coastal miles proposed in the DEAL.

For wildlife survival, it is very likely that the 13 miles of public coastal access proposed in the DEAL is far too much and that the diverse complex of marine and terrestrial wildlife species that exist there now will be significantly impacted and changed favoring the significantly fewer marine and terrestrial species that can easily adapt to the pressures of heavy human use.

But who will take the responsibility, time, and expense to minimally do the several years of needed unbiased species complex/ecological baseline data studies to subsequently be incorporated into a publicly reviewable EIR before the masses are allowed their access? Will State Parks that apparently is being granted the massive passive access easement by the DEAL do these needed studies? Based on past experience in SLO County, that is doubtful unless they are sued to do it by environmentalists. It is more likely State Parks will be sued by recreationists to get much quicker access than pre-access ecological studies and an EIR would allow!

The public access advocates are also arguing in the media, etc., that they currently have more access to the coastline without the DEAL than they will have with it. I am 60 and my long experience has shown me otherwise in similar situations.

I have observed that generally public access onto private rural wild lands is comparatively light compared to later when public access becomes officially allowed due to public access easements or whatever. I believe that the reason for this phenomenon is there are more people willing to access such lands once it becomes legal to do so than there are people willing to access them when it could be considered trespass, whether or not such unofficial access is tolerated by the landowners.

So I do not think it would be correct for the WCB or anyone else to assume that there is currently more public access along the 18 miles of Hearst Ranch coastline than there will be as a result of the 13 miles being granted by the DEAL. I think it is to be expected a significant increase in public access will occur along the Hearst Ranch coastline because of the DEAL and it will have significant increased impacts on wildlife there.

9/8/2004

I have a final major point on this massive passive coastal access issue and the adverse impacts it will have on wildlife, which is primarily being driven by the popular but also wildlife harmful Coastal Act that needs fixing.

After 30 years of watching what has happened as a result of the Coastal Act, I believe that the major portion of the Act that advocates/promotes public access along the coastline has been far more successful than the major part of the Act that advocates/promotes wildlife protection. And due to this likely significant problem, after 30 years of promulgating the Act, it is absolutely necessary and needed that a comprehensive, unbiased study be done to evaluate the success and failure of these 2 major parts of the act.

If this study is done honestly, I believe it will show that the public access part of the Act has been successful but the wildlife protection part of the Act has overall been a failure in large part due to the massive passive public access that has been so heavily promoted by the Act.

I also believe that if this needed study is done, it would find that the wildlife protection part of the Act has overall failed because repeatedly it has been perceived by decision makers that populist pressure demands that public coastal access associated with and derived from most coastal developments (as in the case of this Hearst Ranch DEAL) be achieved quickly, as the Coastal Act's main measure of success.

I further believe that overall it will show that, whereas minimally several years of wildlife studies would be necessary to know the species complexes and ecological relationships that exist along the coast before massive passive access is allowed, and to be able to compare to similar post access studies to truly see how the public coastal access is effecting wildlife survival, and to then determine solutions, in most cases little or no such meaningful baseline wildlife data is collected before the massive passive access is allowed.

It was very exciting in the early 1970's when the Coastal Act was passed to think about and hope for the overall success it would have for the protection of coastal natural resources including wildlife while also allowing more use of the coastline by the public than before the Act.

But times have drastically changed. California's population has grown enormously since the early 70's approximately doubling to about 36,000,000 people now with the demand for recreation at least comparably increasing. And this problem is rapidly escalating as it is expected by 2025 there will be about 50,000,000 people in California, which is about the population the entire Country was when John Muir first started promoting passive public recreation long ago. What would he think now?

However, the Coastal Act continues along as if it were still the early 1970's and the finite coastline and its finite wildlife can just continue to take this recreation onslaught that can't hurt. But it does hurt other species as the passive recreation of 30 years ago has become a massive passive recreation problem and is rapidly getting worse. And it is time something were honestly done about it.

So, the challenge is to the powers that be to finally do this greatly needed honest study of the Coastal Act after all these years, let the results tell the true story, and then do the likely needed changes in the Act and along the coast.

My main point for the WCB to consider with this massive passive access issue, is the same as for my previous two Westside issues. It is imperative that before the WCB designates any of the public \$28.5 million of wildlife conservation bond money for this DEAL, the WCB makes sure a significant specific part of this money is for protection of habitat easements on the Westside too, and not just Eastside

9/8/2004

easements.

If the WCB fails to do this, then as in the cases of the Westside viewscape and Coastal Trail promoters, the massive passive public access promoters already have their vested interest granted by the DEAL's 13 mile public coastal access easement, and the wildlife protection advocates will again have NO vested Westside easement bargaining chip to ensure wildlife interests on the Westside are equally treated with these other already vested, but often harmful to wildlife, interests! For wildlife's sake, prevent this from happening by dedicating part of your WCB funds for Westside wildlife easements to give wildlife a fighting chance against these other non-wildlife vested interests.

This ends my Westside issue comments on the DEAL.

My Eastside comments on the DEAL focus on 3 more major issues that will have significant impacts on wildlife and their habitat. These are the 3,000 proposed acres of nearly-worthless-to-wildlife monoculture including grapescape and orchardscape, the proposed 42 scatter cluster houses, and massive passive public access promoters' pressure for access to the Eastside including Carpofo Creek.

4. The first of my 3 major Eastside issues concerning the DEAL is its proposed 3000 acres of monoculture, which will be very harmful to wildlife. Since when has monoculture become necessary to viable ranching operations? Unfortunately this has become a slick new argument of big developer oriented "ranchers" as Hearst. This is exactly what was argued and now has happened to the once likewise exquisite approximately 14,000 acre Santa Margarita Ranch in San Luis Obispo County.

There the slick "ranch" trust consultants argued for major developer Rossi that the Ranch's ranching viability and therefore diverse wildlife viability would be maintained because that deal would protect from development in perpetuity the great majority of the Ranch. What the deal failed to state was what would really happen.

What is really happening is that a once truly viable ranching operation is being converted to a hobby ranch, because most of the rich, deep-soiled, valley grassland so crucial to viable ranching and valley wildlife survival, has been obliterated by about 2,000 acres of nearly wildlife worthless, pest species loved, monoculture grapescape. And most of what rich, deep-soiled valley land that remains is to be obliterated or greatly reduced in ranching and wildlife value by multiple houses, wineries, roads, and various other recreational, hardscape, and pest species oriented development.

And a big majority of the ranch that they said they were "preserving" for ranching and wildlife is steep hillside and mountainside land. Which is of very low value to rapidly disappearing valley wildlife (for reasons discussed previously in my Westside issues comments) and nearly impossible to conduct economically viable ranching operations on due greatly to the low grass production of the thin erodable soils on the steep slopes.

And here we go again. Hearst Ranch is truly a ranch now. But it has no right to be called a ranch if, as with Santa Margarita Ranch, nearly all of its Eastside rich, deep-soiled, valley rangeland so important to economically viable ranching is dedicated in the DEAL to 3,000 acres of ag intensification monoculture, with much of what Eastside valley rangeland that would remain, mostly in the intermontane valleys in the Santa Lucia Mountains, being dedicated to houses and wineries and associated hardscape as multiple roads.

Hearst and their consultants ridiculously argue that "only" 3000 acres of monoculture including 300 acres of grapescape and 300 acres of orchardscape is a good deal for wildlife protection because they allege that in the past they monocultured 10,000 acres of the ranch and could do it again if they want to

9/8/2004

(apparently as punishment to the public and wildlife) unless we stop them from doing it with this DEAL.

But when in the past has 10,000 acres of monoculture ever existed on Hearst Ranch at one time? Ten thousand acres of ag intensification irrigated row, vine, and orchard monoculture would be so vast an area it would entirely obliterate all of the rich, deep-soiled, valley land on the Ranch, as only flat to mildly sloping valley land is suitable for ag intensification monoculture. According contour maps and other information, at most only about 10,000 acres of relatively flat land exists on the entire Ranch that is suitable for intensified monoculture. The rest of the 82,000 acre ranch is steep hillsides and mountain sides unsuitable to such monoculture.

Simply put, where is the evidence that anywhere close to 10,000 acres of the kinds of intensified ag the DEAL allows (huge orchards, vineyards and vast irrigated row crop fields) ever took place on Hearst Ranch? This magnitude of monoculture (the alleged 10,000 acres) has never occurred at one time on the Ranch and Hearst knows it.

However, if what Hearst and their representatives are really saying is that at some point in time maybe 10,000 acres of the Ranch was covered in some irrigated valley pastureland (good valley wildlife habitat); some ephemeral crops as sugar peas typically grown in the fairly deep alluvial soils at valley fringes (which are often decent wildlife habitat and typically revert to wildlife valuable grasslands the next year); some non-irrigated valley land forage grain cultivation (good wildlife habitat), and lots of non-irrigated steep land forage grain cultivation (typically comparable in value for wildlife to wild annual grasses that naturally cover so much of the Ranch's steep lands), then maybe that is possible.

However, this type of ephemeral, non intensified "monoculture" that overall has good wildlife value, and can easily convert to natural grazing lands the next year, is much different than the 3,000 acres of intensified, irrigated rowcrop, grapescape, and orchardscape monoculture, which have little to no value to wildlife but lots of pest species value. Plus, much of the 3000 acres of intensified monoculture allowed in the DEAL, as the grapescape, orchardscape, etc., can almost never again be converted to ranch and wildlife valuable rangeland, due to the high start-up costs requiring a long return on investment period.

Basically what Hearst and their slick consultants are proposing in the DEAL, is that on the Eastside much of the rich, deep-soiled, coastal terrace valley grasslands so valuable to ranching and valley wildlife survival be allowed to be converted to nearly worthless-to-wildlife ag intensification monoculture.

Why do they think the public would be willing to spend its hard-to-come-by wildlife habitat preservation bond money for this new valley land monoculture with nothing in return but much lower value to wildlife steep lands generally covered by bedrock underlain thin soils mostly inadequate for wildlife burrowing and therefore inadequate for maintaining anything but residual populations or no populations of many wildlife species? The answer is the public would not be willing to spend their wildlife bond money on this DEAL if they knew the truth!

So, members of the WCB, please do not approve any public wildlife protection bond money for a DEAL that allows for the conversion of existing deep-soiled valley rangeland-- so important to the existence of ranching and wildlife-- to intensified, monoculture of any type, except irrigated pasture, which has good wildlife value if it has been proven before the any DEAL is funded that the irrigated pasture will not remove water from creeks and riparian areas!

5. The second of my 3 major Eastside issue with the DEAL is the 42 scatter "cluster" homes: 27 homes for the rich and 15 homes for "ranch" employees, which

9/8/2004

could mostly mean well-off managers of things like the proposed 100 room Hearst Hotel and associated tourist complex.

Right now, because the highway viewscapers are at it again at the expense of wildlife in this unacceptable DEAL, all of these 42 houses, are proposed to be hidden from the viewscape speeders along Highway 1, in what in much of California is some of the last remaining critical-to-wildlife, deep-soiled, burrowable valley habitat: small, intermontane valleys that fortunately have yet to be exploited by hardscape and monoculture developers. Until ranch developers, their consultants, and viewscape planners discover them, as is the case in this DEAL, and designate them for wildlife destroying development.

I oppose any houses except a few for resident Ranch owners and true ranch hands--cowboys and cowgirls. This number of houses should be no more than a reasonable 6 or 8 total at most. And none of these few houses should be allowed wineries. As with grapescape, since when did wineries become critical for successful ranching?

Grapescape and wineries are only critical to those who wish to convert viable ranches to the ambiance of the jump-on-the-bandwagon vino culture, such as Fess Parker's ("Davy Crockett's") grapescape/winery development of once prime Santa Barbara County valley ranchland, Rossi's grapescape/winery destruction of Santa Margarita Ranch prime valley ranchland, etc., and now Hearst's proposed DEAL to destroy well over 300 acres of prime valley ranchland with grapescape and wineries. The only difference is the first two examples fortunately did not use public wildlife conservation bond money to help accomplish their prime valley ranchland/wildlife habitat destructions.

What this DEAL does in asking for public wildlife bond money is obliterate much of the Eastside critical to valley wildlife coastal terrace deep-soiled valley grasslands with monoculture, and the Santa Lucia Mountain small intermontane valley grasslands with houses, wineries, roads, and associated wildlife destroying human activity.

Unacceptable!

Therefore my last comment on the Eastside house issue is the maximum 3 or 4 ranch hand cowboy/cowgirl houses that I recommended above should only go where the existing ranch headquarters are, which is how we see ranch hand houses in old western movies. And the maximum 3 or 4 resident Ranch owner houses that I also recommended above should either go immediately next to Highway 1 where wildlife habitat on the Ranch is already significantly disturbed, fragmented, and obliterated by the Highway and associated activities, or immediately next to the already development disturbed tourist road between Hearst Castle and its associated Tourist Center along Highway 1. This will entirely eliminate the scatter "cluster" of houses sited in the critical wildlife sensitive intermontane valleys of the Santa Lucia Mountains as so inappropriately proposed in the DEAL.

My above recommended small number and wise placement of Hearst Ranch houses will send a good clear message to citizens of California, who graciously approve wildlife protection bond initiatives, that such moneys will truly be spent to protect wildlife and their rapidly disappearing critical valley habitats--especially those valley wildlife habitats that are buffered out of sight or by distance from existing human developments as highways, as these buffered valley habitats are irreplaceably important valley wildlife sanctuaries!

So, please do not approve any WCB public wildlife bond money for any DEAL that has any more houses than I have recommended above and that sites them anywhere but where I have recommended above.

6. The third and last of my 3 Eastside issues concerning the DEAL is the public

9/8/2004

access promoters' pressure for Eastside massive passive access including Carpofofo Creek.

Besides the DEAL placing the Coastal Trail next to Highway 1, the only other major ecologically good aspect of the DEAL is that it does not allow public access to the Eastside. But the WCB and other decision makers including the Coastal Conservancy and the State legislature is under pressure by public access promoters to allow Eastside access including a trail along now fairly remote Carpofofo Creek.

In the era of early conservationists as Muir, Roosevelt, and Leopold, passive recreation in wild lands was almost always acceptable due to a much smaller human population with less adequate transportation to rapidly reach wild lands. So most wild lands and the wildlife therein were not threatened by masses of people. That era is gone due to the huge increase in our population with much better transportation. Passive recreation has turned into massive passive recreation in many places. Where does wildlife's survival rights fit into this pressure for more access. We are well on our way in California of building out all the valleys with hardscape and monoculture. And more and more of the coastline gets turned over to the masses especially due to the promotion of the Coastal Act, rapidly exacerbating wildlife survival there.

About all that is left for wildlife in California, including rapidly dwindling valley wildlife, besides parts of the harsh eastern deserts, are mountains and their mostly harsh steep, thin soils inadequate for many wildlife species. This little-left-of-wilderness-but-the-steep is what David Brower called "wilderness on the rocks" to emphasize its inadequacy for many species of wildlife.

But if these steep areas are about all that we are willing to allow wildlife due to our valley buildouts and coastal massive passive access tendencies, then large areas of the wildlife harsh steep mountains and deserts need to be set aside free of human disturbance to give some wildlife a better shot at survival or at avoiding extinction.

And if much of the mountain areas remaining are private property subject to development pressures, then public wildlife preservation money needs to be used to purchase such areas. After all, that is what the public wildlife preservation bond money passed by the voters is intended for.

Unfortunately, because the Hearst Ranch DEAL has been so secretive, no one acting for the public trust interest of wildlife knows whether or not some limited public access could be allowed on the Eastside including along Carpofofo Creek, without adverse impacts to wildlife. But I do believe that if any errors are to be made regarding the public access issue on the Eastside, the errors should be made in favor of wildlife.

Therefore, until complete species complex/ecological studies can be done with their entire results available to ALL natural resource public trust agencies and the public, to know what impacts would occur to wildlife and therefore what actions to take, the WCB should not help fund any DEAL that allows for Eastside public access including Carpofofo Creek.

This ends my Eastside issues comments as well as my overall comments on the DEAL.

In conclusion I will not provide a summary section listing all of my herein recommendations to the WCB on the DEAL. My various recommendations to you for what to do are at the end of my six sequentially numbered comment sections. I believe this encourages readers besides the WCB to read this entire letter with all of its applicable ecological information/insight that I have acquired over the years.

However, because it is so important, I will summarize the main point that I made in

9/8/2004

my comments for each of my 3 major Westside issues on this DEAL. This main point is please do not only provide funding for Eastside wildlife easements. To do so would be irresponsible and irreparably harmful to wildlife. Wildlife on both sides of Highway 1 are in need of your easement funding for their survival. In fact, the way it stands now, unless you act as I have recommended in the first three numbered sections of my comments, wildlife on the Westside will be at much greater survival risk than wildlife on the Eastside.

This is because up to now viewscape, the proposed Coastal Trail, and massive passive coastal access along 13 new miles of coastline are the only vested "environmental" easements on the Westside, as the first has a Cal Trans funded Westside easement, and the latter two have DEAL granted Westside easements. And to date wildlife have no comparable vested interest on the Westside, since they have no funded or granted easement.

And, as I have discussed in this letter, because the other three types of easements invariably result in significant harm to wildlife, a comparable easement is needed for wildlife on the Westside. This Westside wildlife protection easement will give wildlife an equal vested interest and thus an equal negotiating right at any future bargaining table with any or all of the other three non-wildlife vested interests.

You can do this for Westside wildlife by making sure that your ultimate funding of any DEAL for the Hearst Ranch, includes a significant specific part of your \$28.5 million of WCB money for Westside wildlife easements, and not just for Eastside wildlife easements, as Hearst Corporation likely does not care how the \$28.5 million is divided between Westside and Eastside wildlife easements just so they get the money.

Thankyou for this opportunity to supply written comments on the DEAL for your WCB meeting in Sacramento on Thursday, August 12, 2004.

Sincerely, Phil Ashley (career fish and wildlife biologist)

9/8/2004

7-30-04

JANET DICKL

Dear California Coastal Conservancy:

If the State of California is going to spend millions of dollars on the Hearst Ranch deal the people of California should get more than what Hearst is offering.

We need greater public access at San Simeon Point and Ragged Point. We need a better alignment of the California Coastal Trail.

We need baseline information on the flora and fauna on the ranch. We need to know what the management plan is before we hand over any money. We need public oversight to enforce the management plan to be sure we are getting conservation.

We need to cancel all the certificates of compliance on Hearst Ranch and forbid the selling off of home sites.

Don't buy the present deal. Get a better one or save our money.

Thank you.

Mr. Jesse Arnold
P.O. Box 1211
Cambria
CA 93428

RECEIVED

AUG 02 2004

COASTAL CONSERVATION
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters

ANDREW CARTER

1283 Woodside Drive
San Luis Obispo, CA 93401
805-594-1906
ancarter@aol.com

September 6, 2004

Mr. Paul Morabito, Chairman
Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612

Dear Mr. Morabito:

At next week's board meeting, you will be evaluating the proposed conservation agreement for Hearst Ranch.

As a resident of San Luis Obispo County, I am excited about the possibility of securing and protecting the important part of the California coastline which is owned by the Hearsts. I am concerned, however, about the terms which will apply to the 98% of the ranch which lies east (inland) of Route 1. As currently proposed, there will be no public access east of the highway.

I recognize this land will remain under private ownership, but if the citizens of this state can't "touch" what they've paid for east of the highway and can't even see most of it, what value have they received?

I recognize the Hearsts plan to maintain their working ranch east of Route 1. Having hiked on miles of ranchland in California, I do not believe that limited pedestrian access represents a true conflict.

As you know, various conservation groups have proposed an east/west trail along San Carpoforo Creek. I think a north/south hiking route across the entire ranch is also needed.

The value to be received by the public from the conservation agreement west of Route 1 is clear. The value to be received by the public from the agreement east of the highway is not clear as long as there is no public access. Please correct this situation. Thank you.

Sincerely,



Andrew Carter

RECEIVED
SEP 09 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters

Lynn Christie and family
1710 Stuart St.
Cambria, CA 93428

Sept. 9, 2004

Dear Mr. Schucaht,

Please go over the details of the Hearst Ranch Plan with a fine-toothed comb.

Pay attention to the Legislative Analyst's report and that of the California Coastal Commission staff. Note their recommendations to strengthen resource protection and monitoring, consistency with the Coastal Act, and baseline conditions assessment. Notice also that the Plan reduces coastal access that the public has enjoyed for decades.

Those of us who have actually read the 500 page document (and many others who have learned what is actually in it) would like to see all Hearst land west of Highway 1 transferred to State Parks for public oversight.

This is a squishy deal (including the easements)! The people need to know what they're getting and what they are paying for it. You can afford to be skeptical on this one.

Please help to really preserve this magnificent land.

Thank you,

Lynn Christie

P.S. It is my observation that the people lauding the existing Plan are either uninformed about what is in the document, or ranchers and farmers hoping for the same sweet deal for themselves down the line. And all are taken in by the mighty Hearst p.r. campaign.

RECEIVED
SEP 09 2004
COASTAL CONSERVATION
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters

July 28, 2004

Resources Agency
1416 Ninth St. Suite 1311
Sacramento CA, 95814

Testimony before the Hearst Ranch Conservation Project

I'm David Dabritz and I live in Cayucos.

Being late to sign on as a speaker I did not have an opportunity to present oral testimony on July 15, 2004. 20 other people also did not get the opportunity to speak.

Several bits of added information may put a different light on the prior testimony.

I am a guide at the Elephant Seal Lookout near Piedras Blancas I saw the great cooperation that took place between the Hearst Ranch, Cal Trans, San Luis County, CHP, Fish and Game, National Marine Fisheries, Monterey Bay National Marine Sanctuary, State Parks and many others accomplishing a great deal in a short time. I hope that this project can also be accomplished with many agencies working together for the betterment of all and not hindered by a few outspoken critics.

A lot of the displeasure expressed with the plan seems picky/picky Beach access is always allowed along the mean high tide line to "any" beach in California. Those who want total access have it along the mean high tide line but not as a trespasser over private land inland. When vast expanses of beach are easily accessible over public land from San Simon to Carpoford creek, small areas of private property should not place too much of a hindrance to public use.

All of us should applaud the building of more employee housing by the Hearst Ranch. The county of San Luis Obispo has done next to nothing to provide affordable housing as mandated by the State. A private employer providing housing is a wonderful example of an employer getting qualified staff.

The testimony that a housing cluster, or part of it, may be viewable from a trail 5 miles away (not highway 1) is the height of snob appeal. What more can the opponents think of next. All of the clusters will be viewable from an airplane flying at only 25,000 feet, less than 5 miles above.

DS/ Hearst project

Exhibit 9.1: Public Comment—Letters

Testimony at this time by a member of the Coastal Commission staff disturbs me no end. They are supposed to be neutral and fair to all sides as advisors to a regulatory body. Giving testimony opposing the plan shows lack of discretion by the staff and disciplinary action should be commenced.

Access to a working cattle ranch should not be allowed. As a guide at the Elephant Seal rookery at Piedras Blancas I know what the public can do when allowed unlimited access to wild animals that are protected by law. I would hate to see them let loose in a cow pasture.

Thank you for listening to my comments.


David Dabritz
3650 Studio Dr.
Cayucos CA, 93430
805-995-3874
ddabritz@aol.com

RECEIVED

AUG 05 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.

FS/ Hearst project

Exhibit 9.1: Public Comment—Letters

AVENALES CATTLE CO.
BOX 105 SHANDON, CALIFORNIA 93461
(805) 238-4591 SAN LUIS OBISPO COUNTY CATTLE RANCHERS SINCE 1875

7-4

Dear Mr. Schuchat:

Thank you for the opportunity to comment on the Heart Ranch transaction. I believe the easement that has been negotiated is a good one. The Heart's are giving up about all that they can be expected to. To insist on access across the main body of the ranch would surely kill the deal, and no one who spoke at Congress wanted to do that.

In this county one of the best and most attractive ranches (Santa Margareta) was lost for preservation when a vocal minority pressed the landowner to far. Now there will be a subdivision instead. Please do not let that happen to Heart.

Sincerely

James Sutton

RECEIVED
AUG 05 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters

Mr. Sam Schuchat, Executive Officer, Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612-2530

8-2-04

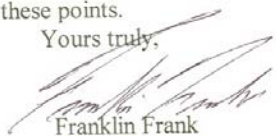
Dear Mr. Schuchat :

Thank you for the follow-up opportunity to comment on the proposed Hearst Ranch conservation deal. I would have liked to have stated my concerns at the meeting but I understand time limitations. My concerns are briefly summarized below:

- I am strongly supportive of the Conservancy participating in this great effort to protect one of the most valuable coastal properties in California.
- I hope this proposal is not a "done deal." Since there are over \$90 million in public funds involved, it is important that the public gets fair value. There are several changes that could be made that would make the deal much more valuable to the public, even if it were to cost a little more. I hope you are not pushing to get a deal as soon as possible. I would hope for a better deal.
- The deal would much better if there were limited public access to several areas on the east side of Highway 1. A Coastal Range ridge-top trail and access up San Carpoforo Creek to the Los Padres National Forest are high priorities. Public access could be conditioned to mitigate fire risk, as well as, impact on agricultural activities. Future access along the ridge-top would require agreements with other property owners but a Hearst "no access" deal now will preclude future access.
- If no public access is provided on the east side, we are spending a lot to only provide a highway viewshed.
- The proposed "clustered" lots on the east side stretch the concept to the breaking point. Strings of 25 acre lots hardly qualify as clusters. What is proposed is the most exclusive subdivision in the USA. They can sell these lots with the exclusive recreational rights to 80,000 acres prime coastal lands in the Hearst Castle neighborhood. These lots will be worth a lot of money. Does the appraisal take this into account?

These are my most pressing concerns. I hope you will give serious consideration to these points.

Yours truly,


Franklin Frank
3615 Ardilla Rd.
Atascadero, CA 93422

RECEIVED
AUG 05 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters

B I L L G A R R E T T

Sam Schuchart
State Coastal Conservancy
11 Floor, 1330 Broadway
Oakland, CA 94612

Dear Mr. Schuchart,

As former Editor of National Geographic Magazine, former member of the National Board of The Nature Conservancy, member of the Board of Councilors for American Land Conservancy etc., I urge that the State Coastal Conservancy will be in favor of the Hearst conservation project. I'm sure you will be.

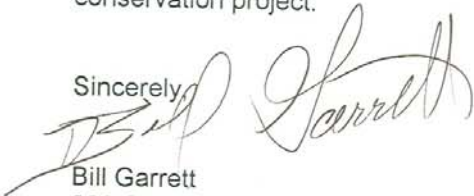
I first saw the Hearst Castle in 1950 and have seen it often since then. Never will you have a conservation project for the Hearst Ranch as good as this one. You probably will never get a Hearst family member as good as Stephen Hearst in favor of a conservation project. I've heard him speak and he is a sharp fellow and interested in conservation.

Needless to say, I am much in favor of having the Coastal Conservancy's approval of the grant for the Hearst Ranch conservation project. With the unanimous vote by the Wildlife Conservancy Board (WCB) on August 12, 2004, the approval of this grant will complete the funding for this great project.

It has taken a lot of work to get this far, and, I want to commend you, your staff and all the agencies involved on the excellent work done to reach an agreement between the American Land Conservancy, California Rangeland Trust and the Hearst Corporation.

After almost 54 year of seeing Hearst Castle for the first time, you can be sure I will be happy to leave Virginia to welcome the day California makes it a conservation project.

Sincerely,


Bill Garrett
209 Seneca Rd
Great Falls, VA 2206

RECEIVED
SEP 09 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

209 SENECA ROAD • GREAT FALLS, VIRGINIA 22066 • (703) 450-4160 • FAX (703) 450-4170
E-MAIL: BILLGARRET@AOL.COM

Exhibit 9.1: Public Comment—Letters

BEATRICE & SHERMAN GRISELLE
2401 Niderer Road
Paso Robles, CA 93446
thegriselles@tcsn.net
(805) 238-4366

July 21, 2004

GOVERNOR ARNOLD SCHWARZENEGGER
State Capitol Building
Sacramento, CA 95814

Subject: Hearst Ranch Proposed Agreement

Dear Governor Schwarzenegger:

We attended the first public workshop on the proposed agreement with Hearst Ranch concerning easements and dedication of land. The meeting was held at the Cayucos Veterans Hall on July 15, 2004. At the end of the meeting we concluded, along with many others present, that many details in the agreement require "fine tuning" and that other important details were missing. The proposed agreement is a good beginning but needs more work before the public can be expected to turnover \$95 million to Hearst Ranch.

The following are some of the details we believe must be included in the agreement in order to protect the public interest.

1. Increased public access, controlled by a public agency, to coastal bluffs and beaches on the seven miles of seaside property, totaling 719 acres, which the Hearst Ranch proposes to retain on the west side of Highway One.
2. Provision for public access to conservation easement land on the west side of Highway One with access controlled by a public agency.
3. A public access easement for the historic Mission San Antonio Trail.
4. A conservation plan (management plan) to protect flora and fauna must be developed for easement lands by qualified natural science consultants under the supervision of a public agency. The plan must provide for public agency monitoring and enforcement of the plan's environmental protection policies and standards, and must provide for permanent funding of these activities. Prior to disbursement of any public funds the plan must be incorporated in the final agreement.
5. The location, size and number of residential lots proposed by the Hearst Ranch must be substantially revised.

Exhibit 9.1: Public Comment—Letters

July 21, 2004
Page two

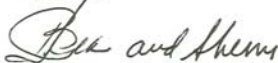
6. All easement rights must be held wholly, or dually, by a public agency. The currently proposed easement rights are not acceptable as they are merely civil contracts between Hearst Ranch and cooperating non-profit groups and are subject to change at any time.
7. A compulsory and impartial arbitration process must be included in the final agreement to reduce the possibility of years of litigation over its terms.

During the workshop officials from public agencies and non-profit groups involved in negotiating the agreement presented it in glowing but very general terms. This is not good enough. Greater specificity concerning agreement details is imperative in order to avoid later misunderstandings and lengthy litigation which may compromise the public interest.

During the workshop at the Veterans Hall knowledgeable citizens and representatives of public interest groups offered many worthwhile suggestions to the negotiators for adding and clarifying details that would strengthen the agreement. It would be wise for the negotiators to heed these public interest recommendations and to incorporate them into the final agreement.

By this letter we are respectfully requesting that you support revisions to the proposed agreement as suggested by public interest groups during the workshop. These recommendations provide for additional details and clarification of existing details in order to fully enhance and protect the common good. With your support the final agreement can become an historic document. We need to get it done right today so our ancestors can be proud tomorrow that we created a commendable agreement.

Sincerely,



Bea and Sherm Griselle

RECEIVED
SEP 02 2004
COASTAL CONSERVANCY
OAKLAND, CALIF.

Our concerns are simple:
Protect landowner access
Prohibit public access
within the area, + surroun-
ding areas to this project
Thanks Linda

Exhibit 9.1: Public Comment—Letters

G4

805 528 4889

p. 1

attention:

J. Diehl & Paul Morabito

September 9, 2004

Dear State Coastal Conservancy Board,

I am writing to urge that you make the following improvements to the Hearst Ranch Conservation Deal at the upcoming September 15 hearing as you consider the final funding arrangement.

1. State approval of the Management Plan, and direct State enforcement of the easements.
2. Public disclosure of the CA Dept. of General Services appraisal summary.
3. State development of the Public Access Plan, through a public planning process. Ensure preservation of public access west of Highway 1, without restrictions on numbers, hours, days or the requirement for guided access. Incorporate measures to provide public access consistent with natural resource protection. Provide for low-cost visitor-serving accommodations at Junge Ranch or Old San Simeon Village. Site the Coastal Trail as close to the coast as possible. Preserve access to the historic San Carpoforo Trail on the east side of Highway 1.
4. Require true clustering of development east of Highway 1, in order to protect views, sensitive habitats, and agricultural operations.
5. Prohibit oil and gas development, mining, and transfer of water off-site.

Besides wanting to ensure that the proposed Hearst Ranch Conservation Deal protects natural and agricultural resources, views, and public access, we are also concerned about the public's role in implementation, management and enforcement of the Deal.

Thank you for improving the public's stake in this historical purchase.



Linde Owen
1935 10th B
Los Osos, CA 93402

Exhibit 9.1: Public Comment—Letters

STANLEY REICHENBERG
2410 Cima Court
San Luis Obispo, CA 93401
(805) 785-0246

Janet
August 15, 2004

Sam Schuchat, Executive Officer
Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, California 94612


Dear Mr. Schuchat:

Thanks for the opportunity to give my input on the proposed Hearst Ranch Conservation acquisition.

I have followed the information available in newspapers over the past few months and have also reviewed the information on the state website regarding the Hearst Ranch Conservation project.

I believe that the people of California would greatly benefit from the acquiring the Hearst Ranch on the terms approved recently by the Wildlife Conservation Board.

Sincerely yours,



Stanley Reichenberg

RECEIVED

AUG 18 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters

Holly Sletteland
4849 See Ranch Lane
Templeton, CA 93465
August 6, 2004

Office of the Governor
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger,

I am writing to you as a former board member of the Upper Salinas Las Tablas Resource Conservation District (USLT-RCD) who was a part of the unanimous decision to support the Conservation Framework for the Hearst Ranch. While I suspect that the remaining members of the board are still supportive of the final proposal, I now have some serious reservations.

When Roger Lyons, attorney for the Hearst Corporation, presented the Framework to the RCD, I was encouraged by the general outline of the proposal. The Hearst Ranch is truly a magnificent landscape and I was guardedly optimistic that the Hearst Corporation and the American Land Conservancy could hammer out a deal that protected “natural and scenic resources”, increased “public access west of Highway 1” and insured the continuation of historic ranching operations. Nonetheless, the details set forth in the Framework were far too sketchy to make any informed decision about the ultimate merits of the proposal. I suggested to Roger Lyons and my fellow Board members that it was premature to be endorsing a proposal when so many substantive elements were still outstanding. Mr. Lyons countered that such endorsements were critical at that particular juncture in order to secure the necessary funding to make the proposal succeed. He pointed out that there were numerous other conservation projects throughout the state vying for very limited funds. He noted that government officials would be more likely to fund the proposal if there was a strong showing of community support. That sounded reasonable enough, and I agreed to support a resolution in favor of the Framework providing that it was amended to include language indicating that our support was contingent upon confirmation that the final deal did, in fact, fulfill the promises of the Framework.

Although the final proposal released to the public fulfills many of the promises set forth in the Framework, it clearly misses the mark in others. I would hope that these areas can be strengthened and improved before a final deal is approved. My concerns are as follows:

1. **Coastal Access:** I am extremely disappointed that the Hearst Corporation wants to retain ownership of, and severely restrict access to, Pico Point, Ragged Point and especially San Simeon Point. San Simeon Point was quite literally the focal point of the massive demonstrations against Hearst’s original development plans. Saving San Simeon Point was a rallying cry for the hundreds of people who opposed the development, and preserving access to its pristine beauty a central goal. I don’t think anyone was envisioning that such access would be rationed to 100 people a day, certain months out of the year, along a single trail with penalties if you stop for a picnic. San Simeon Point is a

Exhibit 9.1: Public Comment—Letters

logical extension of the Hearst Memorial State Beach, and ideally should become a part of its management plan.

2. **California Coastal Trail:** I am similarly disappointed that the proposal calls for routing the California Coastal Trail (CCT) along the highway. When the Coastal Act was passed in 1972, it provided for establishing a trail system along the coast and noted “ideally the trails system should be continuous and located near the shoreline.” It would seem we have an excellent opportunity to do just that, and we should not settle for having to walk along the highway with cars zipping past us.
3. **Agricultural operations:** I have long been impressed with the Hearst Corporation’s stewardship of their land and the sustainability of their cattle operations. I was very supportive of the idea of having agricultural easements on much of the ranch to allow this to continue. I was envisioning something along the lines of the Gray Ranch in New Mexico, whereby the Hearst Ranch could serve as a model for how cattle operations could be both profitable and sustainable. It never dawned on me that intensified agriculture was part of the equation. This has potentially dire consequences for the biological resources on the ranch, and yet I did not see any requirement that such operations be located away from sensitive areas and not be allowed to degrade surface waterways. This is particularly disturbing in view of the fact that a baseline inventory of the biological resources has not been completed and released to the public, nor has a long-term management plan been developed to protect the resources that are identified. Making matters worse, the easement will be monitored and enforced by a private land conservancy with no accountability to the public. While it is common practice for private land trusts to monitor and enforce easements, it seems rather cavalier to make such a large investment of public funds without a requirement that the land trust at least provide regular status reports and immediate notification of any enforcement actions taken to public agencies.

My misgivings about the proposal don’t end there. I could cite other areas which make me a bit uneasy as well (e.g. lack of clustering, increased number of homes, retention of mining rights), but these are dwarfed in significance by my concerns about safeguarding the natural resources of the ranch in perpetuity and insuring irrevocable public access to the most scenic and treasured parts of the San Simeon coastline. The promise of the original framework will not have been met if these goals are not achieved, and we will have lost our only opportunity to fully protect the ranch. Please don’t let that happen. The clock is ticking, but time has not run out. You still have the power to improve this proposal before it is finalized and I am among the many who are counting on you to do so.

Sincerely,



RECEIVED

AUG 09 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.

CC: ✓ Michael Chrisman, Resources Secretary
✓ Sam Schucaht, Executive Officer, State Coastal Conservancy
Al Wright, Director, Wildlife Conservation Board

8/4/04

Dear Sir;

Atascadero, CA

Thank you for the chance to make my views known. The forementioned will be a landmark event to conserve viable natural resources.

I can't at this time perceive a future with out such options in place. Long standing areas of production require the continuity of production experience to prevent starvation. This easement vehicle addresses resources continuing in production in this area of population growth.

Robert Spauling

4905 Ardilla

Atascadero, CA
93422

RECEIVED

AUG 09 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.

Exhibit 9.1: Public Comment—Letters

09/07/2004 15:03

6196609302

POSTAL ANNEX 241

PAGE 01

Mrs. Patricia Wiley
1620 Penasco Rd.
El Cajon, CA 92019

Sept 7, 2004

To: Mr. Paul Morabito, Chairman
State Coastal Conservancy

From: Mrs. Patricia Wiley
California Taxpayer

Dear Mr. Morabito:

This is a copy of a letter I sent to Mr. San Schuchat (Calif. Coastal Commission) regarding the pending land purchase from Hearst Ranch Corp of a section of California Coastal area.

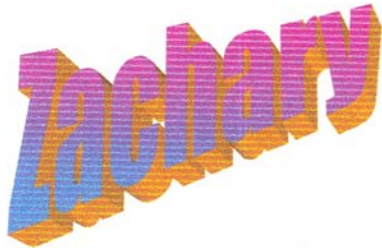
I would ask that your conservancy organization take more time to consider some of the important questions and concerns that appear not to have been well addressed up to this date.

Please read and share this letter with your board members as it does pose questions and concerns about the Hearst Ranch land purchase which I strongly believe needs to be more defined and clear to those of us who are tax payers in California.

Looking forward to having the opportunity to meet you and your board members at the Sept 15th meeting in Windsor, CA.

Sincerely, Mrs. Patricia Wiley
30wlypat@nethere.com

Exhibit 9.1: Public Comment—Letters



P.O. Box 6656
Los Osos CA 93412

9/1/04

Paul Morabito, Chairman
California Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612

Dear Mr. Morabito:

Please do whatever you can to protect the Hearst Ranch property. I'd rather see no use of it at all, leaving it pristine, that to put in unlimited trails, roads, camping, and on and on.

Once "spoiled," we can never get it back.

Sincerely,

(805) 459-1294

RECEIVED

SEP 03 2004

COASTAL CONSERVANCY
OAKLAND, CALIF.